Use these links to rapidly review the document
TABLE OF CONTENTS
INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

As filed with the Securities and Exchange Commission on April 29, 2010

Registration Number 333-164590

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

Amendment No. 6
to
FORM S-1

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

DOUGLAS DYNAMICS, INC.

(Exact name of Registrant as specified in its charter)

Delaware	**3531**	**134275891**
(State or other jurisdiction of incorporation or organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification Number)

7777 North 73rd Street
Milwaukee, Wisconsin 53223
(414) 354-2310
(Address, including zip code, and telephone number, including area code, of registrant's of principal executive offices)

James L. Janik
President and Chief Executive Officer
Douglas Dynamics, Inc.
7777 North 73rd Street
Milwaukee, Wisconsin 53223
(414) 354-2310
(Name, address and telephone number, including area code, of agent for service)

Copies to:

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Los Angeles, CA 90071
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As soon as practicable after this Registration Statement becomes effective.
(Approximate date of commencement of proposed sale to the public)

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box. ☐

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act (Check one):

Large accelerated filer ☐	Accelerated filer ☐	Non-accelerated filer ☒ (Do not check if a smaller reporting company)	Smaller reporting company ☐

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered(1)	Proposed Maximum Aggregate Offering Price(2)	Amount of Registration Fee
Common Stock, $.01 par value	11,500,000	$184,000,000	$13,119.20(3)

(1) Includes 1,500,000 shares that the underwriters have the option to purchase to cover overallotments, if any.
(2) Estimated solely for the purpose of computing the amount of the registration fee, in accordance with Rule 457(a) promulgated under the Securities Act of 1933.
(3) Previously paid.

THE REGISTRANT HEREBY AMENDS THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANT SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(A) OF THE SECURITIES ACT OF 1933, OR UNTIL THE REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE COMMISSION, ACTING PURSUANT TO SAID SECTION 8(A), MAY DETERMINE.

Table of Contents

The information in this prospectus is not complete and may be changed. We and the selling stockholders may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED APRIL 29, 2010

10,000,000 Shares

Douglas Dynamics, Inc.

Common Stock

This is the initial public offering of our common stock. We are selling 4,900,000 shares of common stock and the selling stockholders are selling 5,100,000 shares of common stock. We will not receive any proceeds from the sale of shares of common stock by the selling stockholders. Prior to this offering there has been no public market for our common stock. The initial public offering price of our common stock is expected to be between $14.00 and $16.00 per share. We have applied to list our common stock on the New York Stock Exchange under the symbol "PLOW."

The underwriters have a 30-day option to purchase on a pro rata basis an aggregate of 1,500,000 additional outstanding shares from the selling stockholders to cover over-allotments of shares.

Investing in our common stock involves risks. See "Risk Factors" beginning on page 14.

	Price to Public	Underwriting Discounts and Commissions	Proceeds to Douglas Dynamics, Inc.	Proceeds to Selling Stockholders
Per Share	$	$	$	$
Total	$	$	$	$

Delivery of the shares of our common stock will be made on or about , 2010.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

Credit Suisse **Oppenheimer & Co.**

Baird **Piper Jaffray**

The date of this prospectus is , 2010.

Table of Contents

BLIZZARD
SNOWPLOWS

TABLE OF CONTENTS

You should rely only on the information contained in this prospectus. We have not, and the underwriters have not, authorized anyone to provide you with information that is different. The information in this prospectus may only be accurate as of the date on the cover page of this prospectus. This prospectus does not constitute an offer to sell, or a solicitation of an offer to buy, any securities offered hereby in any jurisdiction where, or to any person to whom, it is unlawful to make such offer or solicitation.

Dealer Prospectus Delivery Obligation

Until , 2010 (25 days after the commencement of this offering), all dealers that effect transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealer's obligation to deliver a prospectus when acting as an underwriter and with respect to their unsold allotments or subscriptions.

PROSPECTUS SUMMARY

The following summary should be read together with, and is qualified in its entirety by, the more detailed information and financial statements and related notes included elsewhere in this prospectus. The following summary does not contain all of the information you should consider before investing in our common stock. For a more complete understanding of this offering, we encourage you to read this entire prospectus, including the "Risk Factors" section, before making an investment in our common stock. All information in this prospectus has been adjusted to give effect to a 23.75-for-one stock split of our common stock that will be effective immediately prior to the consummation of the offering, unless otherwise specified.

In this prospectus, unless the context indicates otherwise: "Douglas Dynamics," the "Company," "we," "our," "ours" or "us" refer to Douglas Dynamics, Inc. (formerly known as Douglas Dynamics Holdings, Inc.) and its subsidiaries and "Douglas Holdings" refers to Douglas Dynamics, Inc. exclusive of its subsidiaries. Douglas Dynamics, Inc. is a Delaware corporation and the issuer of the common stock offered hereby.

Our Company

We are the North American leader in the design, manufacture and sale of snow and ice control equipment for light trucks, which consists of snowplows and sand and salt spreaders, and related parts and accessories. We sell our products under the WESTERN®, FISHER® and BLIZZARD® brands which are among the most established and recognized in the industry. We believe that in 2009 our share of the light truck snow and ice control equipment market was greater than 50%. In 2009, we generated net sales, Adjusted EBITDA (as defined in "—Summary Historical Consolidated Financial and Operating Data") and net income of $174.3 million, $45.2 million and $9.8 million, respectively, as compared to net sales, Adjusted EBITDA and net income of $180.1 million, $47.7 million and $11.5 million, respectively, for 2008. See "—Summary Historical Consolidated Financial and Operating Data" for a discussion of why management uses Adjusted EBITDA to measure our financial performance, and a reconciliation of net income to Adjusted EBITDA.

We offer the broadest and most complete product line of snowplows and sand and salt spreaders for light trucks in the U.S. and Canadian markets. We also provide a full range of related parts and accessories, which generates an ancillary revenue stream throughout the lifecycle of our snow and ice control equipment. For the year ended December 31, 2009, 85% of our net sales were generated from sales of snow and ice control equipment, and 15% of our net sales were generated from sales of parts and accessories.

We sell our products through a distributor network primarily to professional snowplowers who are contracted to remove snow and ice from commercial, municipal and residential areas. Over the last 50 years, we have engendered exceptional customer loyalty for our products because of our ability to satisfy the stringent demands of our customers for a high degree of quality, reliability and service. As a result, we believe our installed base is the largest in the industry with over 500,000 snowplows and sand and salt spreaders in service. Because sales of snowplows and sand and salt spreaders are primarily driven by the need of our core end-user base to replace worn existing equipment, we believe our substantial installed base provides us with a high degree of predictable sales over any extended period of time.

We believe we have the industry's most extensive North American distributor network, which primarily consists of over 720 truck equipment distributors who purchase directly from us and are located throughout the snowbelt regions in North America (primarily the Midwest, East and Northeast regions of the United States as well as all provinces of Canada). Beginning in 2005, we began to extend our reach to international markets, establishing distribution relationships in Northern Europe and Asia, where we believe meaningful growth opportunities exist.

We believe we are the industry's most operationally efficient manufacturer due to our vertical integration, highly variable cost structure and intense focus on lean manufacturing. We continually seek

to use lean principles to reduce costs and increase the efficiency of our manufacturing operations. Our manufacturing efficiencies have contributed to the increase of our gross profit per unit by approximately 3.0% per annum, compounded annually, from 2000 to 2009. While we currently manufacture our products in three facilities that we own in Milwaukee, Wisconsin, Rockland, Maine and Johnson City, Tennessee, we have improved our manufacturing efficiency to the point that we will be closing our Johnson City, Tennessee facility effective mid-2010. We expect that the closing of this facility will yield estimated cost savings of approximately $4 million annually, with no anticipated reduction in production capacity. Furthermore, our manufacturing efficiency allows us to deliver desired products quickly to our customers during times of sudden and unpredictable snowfall events when our customers need our products immediately.

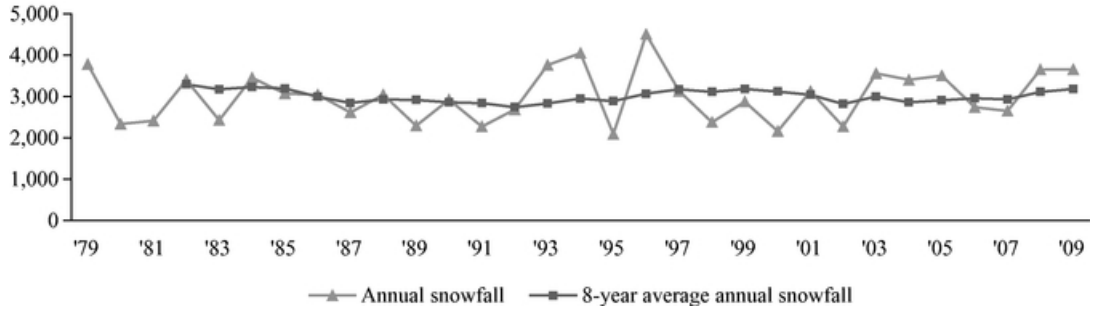
Our Industry

The light truck snow and ice control equipment industry in North America consists predominantly of domestic participants that manufacture their products in North America. The annual demand for snow and ice control equipment is driven primarily by the replacement cycle of the existing installed base, which is predominantly a function of the average life of a snowplow or spreader and is driven by usage and maintenance practices of the end-user. We believe actively-used snowplows are typically replaced, on average, every 7 to 8 years.

The primary factor influencing the replacement cycle for snow and ice control equipment is the level, timing and location of snowfall. Sales of snow and ice control equipment in any given year and region are most heavily influenced by local snowfall levels in the prior snow season. Heavy snowfall during a given winter causes equipment usage to increase, resulting in greater wear and tear and shortened life cycles, thereby creating a need for replacement equipment and additional parts and accessories.

While snowfall levels vary within a given year and from year-to-year, snowfall, and the corresponding replacement cycle of snow and ice control equipment, is relatively consistent over multi-year periods. The following chart depicts aggregate annual and eight-year (based on the typical life of our snowplows) rolling average of the aggregate snowfall levels in 66 cities in 26 snowbelt states across the Northeast, East, Midwest and Western United States where we monitor snowfall levels) from 1980 to 2009. As the chart indicates, since 1982 aggregate snowfall levels in any given rolling eight-year period have been fairly consistent, ranging from 2,742 to 3,295 inches.

Snowfall in Snowbelt States (inches)
(for October 1 through March 31)



Note: The 8-year rolling average snowfall is not presented prior to 1982 for purposes of the calculation due to lack of snowfall data prior to 1975. Snowfall data in this chart is not adjusted for snowfall outside of the 66 cities in the 26 states reflected.

Source: National Oceanic and Atmospheric Administration's National Weather Service.

The demand for snow and ice control equipment can also be influenced by general economic conditions in the United States, as well as local economic conditions in the snowbelt regions in North America. In stronger economic conditions, our end-users may choose to replace or upgrade existing equipment before its useful life has ended, while in weak economic conditions, our end-users may seek

to extend the useful life of equipment, thereby increasing the sales of parts and accessories. However, since snow and ice control management is a non-discretionary service necessary to ensure public safety and continued personal and commercial mobility in populated areas that receive snowfall, end-users cannot extend the useful life of snow and ice control equipment indefinitely and must replace equipment that has become too worn, unsafe or unreliable, regardless of economic conditions.

Sales of parts and accessories for 2008 and 2009, respectively, were approximately 85.8% and 58.3% higher than average annual parts and accessories sales over the preceding ten years, which management believes is largely a result of the deferral of new equipment purchases due to the recent economic downturn. Although sales of snow and ice control units increased in 2008 and 2009 as compared to 2007, management believes that absent the recent economic downturn, equipment sales in 2008 and 2009 would have been considerably higher due to the high levels of snowfall during these years, as equipment unit sales in 2008 and 2009 remained below the ten-year average, while snowfall levels in 2008 and 2009 were considerably above the ten-year average. Management believes this deferral of new equipment purchases could result in an elevated multi-year replacement cycle as the economy recovers.

Long-term growth in the overall snow and ice control equipment market also results from geographic expansion of developed areas in the snowbelt regions of North America, as well as consumer demand for technological enhancements in snow and ice control equipment and related parts and accessories that improves efficiency and reliability. Continued construction in the snowbelt regions in North America increases the aggregate area requiring snow and ice removal, thereby growing the market for snow and ice control equipment. In addition, the development and sale of more reliable, more efficient and more sophisticated products have contributed to an approximate 2% to 4% average unit price increase in each of the past five years.

Our Competitive Strengths

We compete solely with other North American manufacturers who do not benefit from our extensive distributor network, manufacturing efficiencies and depth and breadth of products. As the market leader in snow and ice control equipment for light trucks, we enjoy a set of competitive advantages versus smaller equipment providers, which allows us to generate robust cash flows in all snowfall environments and to support continued investment in our products, distribution capabilities and brand regardless of annual volume fluctuations. We believe these advantages are rooted in the following competitive strengths and reinforces our industry leadership over time.

Exceptional Customer Loyalty and Brand Equity. Our brands enjoy exceptional customer loyalty and brand equity in the snow and ice control equipment industry with both end-users and distributors which have been developed through over 50 years of superior innovation, productivity, reliability and support, consistently delivered season after season. We believe past brand experience, rather than price, is the key factor impacting snowplow purchasing decisions.

Broadest and Most Innovative Product Offering. We provide the industry's broadest product offering with a full range of snowplows, sand and salt spreaders and related parts and accessories. We believe we maintain the industry's largest and most advanced in-house new product development program, historically introducing several new and redesigned products each year. Our broad product offering and commitment to new product development is essential to maintaining and growing our leading market share position as well as continuing to increase the profitability of our business.

Extensive North American Distributor Network. With over 720 direct distributors, we benefit from having the most extensive North American direct distributor network in the industry, providing a significant competitive advantage over our peers. Our distributors function not only as sales and support agents (providing access to parts and service), but also as industry partners providing real-time end-user information, such as retail inventory levels, changing consumer preferences or desired functionality enhancements, which we use as the basis for our product development efforts.

Leader in Operational Efficiency. We believe we are a leader in operational efficiency in our industry, resulting from our application of lean manufacturing principles and a highly variable cost structure. By utilizing lean principles, we are able to adjust production levels easily to meet fluctuating demand, while controlling costs in slower periods. This operational efficiency is supplemented by our highly variable cost structure, driven in part by our access to a sizable temporary workforce (comprising approximately 10-15% of our total workforce), which we can quickly adjust, as needed. These manufacturing efficiencies enable us to respond rapidly to urgent customer demand during times of sudden and unpredictable snowfalls, allowing us to provide exceptional service to our existing customer base and capture new customers from competitors that we believe cannot service their customers' needs with the same speed and reliability.

Strong Cash Flow Generation. We are able to generate significant cash flow as a result of relatively consistent high profitability (Adjusted EBITDA Margins averaged 25.4% for the three-year period from 2007 to 2009), low capital spending requirements and predictable timing of our working capital requirements. Our cash flow results will also benefit substantially from approximately $18 million of annual tax-deductible intangible and goodwill expense over the next ten years, which has the impact of reducing our corporate taxes owed by approximately $6.7 million on an annual basis during this period, in the event we have sufficient taxable income to utilize such benefit. Our significant cash flow has allowed us to reinvest in our business, pay down long term debt by approximately $17 million over the past six years and pay substantial dividends on a pro rata basis to our stockholders, although no such dividends have been declared since 2006.

Experienced Management Team. We believe our business benefits from an exceptional management team that is responsible for establishing our leadership in the snow and ice control equipment industry for light trucks. Our senior management team, consisting of four officers, has an average of approximately 19 years of weather-related industry experience and an average of over nine years with our company. James Janik, our President and Chief Executive Officer, has been with us for over 17 years and in his current role since 2000, and through his strategic vision, we have been able to expand our distributor network and grow our market leading position.

Our Business Strategy

Our business strategy is to capitalize on our competitive strengths to maximize cash flow to pay dividends, reduce indebtedness and reinvest in our business to create stockholder value. The building blocks of our strategy are:

Continuous Product Innovation. We believe new product innovation is critical to maintaining and growing our market-leading position in the snow and ice control equipment industry. We will continue to focus on developing innovative solutions to increase productivity, ease of use, reliability, durability and serviceability of our products and on incorporating lean manufacturing concepts into our product development process, which has allowed us to reduce the overall cost of development and, more importantly, to reduce our time-to-market by nearly one-half. As a result of these efforts, approximately $73 million or 50% of our 2009 equipment sales came from products introduced or redesigned in the last five years.

Distributor Network Optimization. Over the last ten years, we have grown our network by over 250 distributors. We will continually seek opportunities to continue to expand our extensive distribution network by adding high-quality, well-capitalized distributors in select geographic areas and by cross-selling our industry-leading brands within our distribution network to ensure we maximize our ability to generate revenue while protecting our industry leading reputation, customer loyalty and brands. We will also focus on optimizing this network by providing in-depth training, valuable distributor support and attractive promotional and incentive opportunities. As a result of these efforts, we believe a majority of our distributors choose to sell our products exclusively. We believe this sizable high quality network is

unique in the industry, providing us with valuable insight into purchasing trends and customer preferences, and would be very difficult to replicate.

Aggressive Asset Management and Profit Focus. We will continue to aggressively manage our assets in order to maximize our cash flow generation despite seasonal and annual variability in snowfall levels. We believe our ability is unique in our industry and enables us to achieve attractive margins in all snowfall environments. Key elements of our asset management and profit focus strategies include:

- employment of a highly variable cost structure, which allows us to quickly adjust costs in response to real-time changes in demand;
- use of enterprise-wide lean principles, which allow us to easily adjust production levels up or down to meet demand;
- implementation of a pre-season order program, which incentivizes distributors to place orders prior to the retail selling season and thereby enables us to more efficiently utilize our assets; and
- development of a vertically integrated business model, which we believe provides us cost advantages over our competition.

Additionally, although modest, our capital expenditure requirements and operating expenses can be temporarily reduced in response to anticipated or actual lower sales in a particular year to maximize cash flow.

Flexible, Lean Enterprise Platform. We will continue to utilize lean principles to maximize the flexibility, efficiency and productivity of our manufacturing operations while reducing the associated costs, enabling us to increase distributor and end-user satisfaction. For example, in an environment where shorter lead times and near-perfect order fulfillment are important to our distributors, we believe our lean processes have helped us to improve our shipping performance and build a reputation for providing industry leading shipping performance. In 2009, we fulfilled 98.2% of our orders on or before the requested ship date, without error in content, packaging or delivery, representing our strongest shipping performance to date, as compared to 71.0% in 2005 and 81.5% in 2008.

Our cost reduction efforts also include the rationalization of our supply base and implementation of a global sourcing strategy, resulting in approximately $3.2 million of cumulative annualized cost savings from 2006 to 2009 with the goal of an additional $1.1 million in annualized cost savings in 2010. In January 2009, we opened a sourcing office in China, which will become our central focus for specific component purchases and will provide a majority of our procurement cost savings in the future.

Our Growth Opportunities

Increase Our Industry Leading Market Share. We plan to leverage our industry leading position, distribution network and new product innovation capabilities to capture market share in the North American snow and ice control equipment market, focusing our primary efforts on increasing penetration in those North American markets where we believe our overall market share is less than 50%. We also plan to continue growing our presence in the snow and ice control equipment market outside of North America, particularly in Asia and Europe, which we believe could provide significant growth opportunities in the future.

Opportunistically Seek New Products and New Markets. We will consider external growth opportunities within the snow and ice control industry and other equipment or component markets. We plan to continue to evaluate acquisition opportunities within our industry that can help us expand our distribution reach, enhance our technology and as a consequence improve the breadth and depth of our product lines. We also consider diversification opportunities in adjacent markets that complement our business model and could offer us the ability to leverage our core competencies to create stockholder value.

Recent Developments

As described under "Management's Discussion and Analysis—Seasonality and Year-To-Year Variability," our revenue and operating results tend to be lowest during the first quarter, during which period we typically experience negative earnings as the snow season draws to a close. Our first quarter revenue has varied from approximately $7.9 million to approximately $22.4 million between 2005 and 2009. Management expects revenue for the period ended March 31, 2010 to be approximately in line with the middle of the range of first quarter revenue for the period from 2005 to 2009. During this five-year period, net income during the first quarter has varied from a net loss of approximately $2.9 million to a net loss of approximately $6.5 million, with an average net loss of $4.7 million. Consistent with this historical seasonality, management currently expects to have a net loss for the period ended March 31, 2010 at the higher end of our historical experience over the last five years, due largely to costs associated with the closure of our Johnson City, Tennessee facility.

During the second quarter of 2010 we expect to incur non-cash charges related to the exercise of outstanding options by management and other optionholders and the write-off of deferred financing fees incurred in connection with our senior notes. In addition, we will incur cash expenses of $5.8 million related to the termination of our Management Services Agreement and $2.9 million related to the premium paid in connection with the redemption of our senior notes in connection with this offering.

Summary Risk Factors

An investment in our common stock involves a high degree of risk. You should carefully consider the risks summarized below, the risks described under "Risk Factors" beginning on page 14 and the other information contained in this prospectus, including our consolidated financial statements and the related notes, before deciding to purchase any shares of our common stock:

- our results of operations depend primarily on the level, timing and location of snowfall in the regions in which we offer our products;
- the seasonality and year-to-year variability of our business can cause our results of operations and financial condition to be materially different from quarter-to-quarter and from year-to-year;
- if economic conditions in the United States continue to remain weak or deteriorate further, our results of operations and ability to pay dividends may be adversely affected;
- our failure to maintain good relationships with our distributors, the loss or consolidation of our distributor base or the actions or inactions of our distributors could have an adverse effect on our results of operations and ability to pay dividends;
- if we are unable to develop new products or improve upon our existing products on a timely basis, our business and financial condition could be adversely affected;
- if our costs of labor or the price of steel or other components of our products increase, our gross margins could decline;
- you may not receive the level of dividends provided for in the dividend policy that our Board of Directors will adopt or any dividends at all; and
- satisfying our debt service obligations and paying dividends may leave us with insufficient cash to fund unexpected cash needs and growth.

Contemplated Financing Transactions in Connection with this Offering

In connection with this offering, we intend to increase our existing term loan facility by $40 million. We will use the proceeds from this offering together with proceeds from this increase in our term loan facility to redeem the outstanding $7^{3}/_{4}$% Senior Notes due 2012, which we refer to in this prospectus as our senior notes, issued by our direct wholly-owned subsidiaries, Douglas Dynamics, L.L.C. which we refer to in this prospectus as Douglas LLC, and Douglas Dynamics Finance

Company, which we refer to in this prospectus as Douglas Finance. The total redemption amount is expected to be approximately $157.3 million, which amount includes accrued and unpaid interest and the associated redemption premium. Concurrent with the consummation of this offering, we also intend to amend our existing term loan and revolving credit facilities to permit the redemption of our senior notes.

Interests of Certain Affiliates in this Offering

Certain of our officers, directors and other affiliates may stand to benefit as a result of this offering.

Specifically, certain of our executive officers will exercise stock options and sell the underlying shares of common stock in this offering and will also be entitled to payments under our Liquidity Bonus Plan that provides for an aggregate cash bonus payment of $1 million to be distributed to eligible employees, including our officers. Additionally, our Chief Executive Officer holds deferred stock units that will convert into an equivalent number of shares of our common stock upon expiration of the lock-up agreement entered into by him. Certain of our officers and directors will also receive grants of restricted stock immediately prior to the pricing of our common stock sold in this offering.

The Aurora Entities and Ares, together with certain of our other stockholders, will also sell a portion of their shares of our common stock in this offering. We will also redeem the one share of Series B preferred stock and Series C preferred stock held respectively by Aurora Equity Partners II L.P. and Ares Corporate Opportunities Fund, L.P., which we refer to in this prospectus as Ares, at a price of $1,000 per share. In addition, Aurora Management Partners LLC, an affiliate of the Aurora Entities, together with ACOF Management, L.P., an affiliate of Ares, will receive an aggregate payment of approximately $5.8 million in connection with the amendment and restatement of our Amended and Restated Joint Management Services Agreement, which we refer to in its current form in this prospectus as the Management Services Agreement.

For a description of the interests of these parties in this offering, see "Interests of Certain Affiliates in this Offering."

Company Information

Douglas Holdings is a holding corporation that was formed and capitalized by Aurora Equity Partners II L.P., a Delaware limited partnership, and Aurora Overseas Equity Partners II, L.P., a Cayman Islands exempt limited partnership, which we collectively refer to in this prospectus as the Aurora Entities.

Douglas Holdings was formed for the purpose of effectuating the acquisition of our business in March 2004 from AK Steel Corporation, which we refer to in this prospectus as the Acquisition. Douglas Holdings owns all of the issued and outstanding limited liability company interests of Douglas LLC, our operating company, together with its subsidiaries.

We maintain our principal executive offices at 7777 North 73rd Street, Milwaukee, Wisconsin 53223, and our telephone number is (414) 354-2310. We maintain a website at *www.DouglasDynamics.com*. Information contained on our website is not a part of, and is not incorporated by reference into, this prospectus.

"WESTERN," "FISHER" and "BLIZZARD" and their respective logos are trademarks. Solely for convenience, from time to time we refer to our trademarks in this prospectus without the ® symbols, but such references are not intended to indicate that we will not assert, to the fullest extent under applicable law, our rights to our trademarks.

The Offering

Issuer	Douglas Dynamics, Inc.
Common stock offered by us	4,900,000 shares
Common stock offered by the selling stockholders	5,100,000 shares
Over-allotment option	The selling stockholders have granted the underwriters a 30-day option to purchase up to 1,500,000 additional outstanding shares of common stock from the selling stockholders at the initial public offering price less underwriting discounts and commissions. The option may be exercised only to cover any over-allotments.
Common stock outstanding after this offering	19,769,539 shares.
Use of proceeds	We will use the net proceeds from this offering together with an increase in our term loan facility to redeem our senior notes, including accrued and unpaid interest and the related redemption premium, for an estimated total of $157.3 million. We will not receive any proceeds from the sale of shares by the selling stockholders, including any shares sold pursuant to the underwriters' over-allotment option. See "Use of Proceeds."
Dividend policy	Our Board of Directors will adopt a dividend policy, effective upon the consummation of this offering, that reflects an intention to distribute to our stockholders a regular quarterly cash dividend, commencing during the first full fiscal quarter following the consummation of this offering in equal quarterly installments at an initial annual rate of $0.78 per share. The declaration and payment of these dividends will be at the discretion of our Board of Directors and will depend upon many factors, including our financial condition and earnings, legal requirements, taxes, the terms of our indebtedness and other factors our Board of Directors may deem to be relevant. See "Dividend Policy and Restrictions."
Risk factors	See "Risk Factors" beginning on page 14 of this prospectus for a discussion of factors you should carefully consider before deciding to invest in our common stock.
Proposed NYSE symbol	PLOW

Unless otherwise noted, all information in this prospectus assumes:

- no exercise of the underwriters' over-allotment option;
- the repurchase, after the consummation of this offering, of all of our senior notes, including accrued and unpaid interest through the anticipated redemption date (30 days following the consummation of this offering) and the associated redemption premium for a total of approximately $157.3 million;
- a 23.75-for-one stock split of our common stock that will occur prior to the consummation of this offering; and
- a public offering price of $15.00 per share of our common stock, which is the mid-point of the range set forth on the cover page of this prospectus.

SUMMARY HISTORICAL CONSOLIDATED FINANCIAL AND OPERATING DATA

The following summary consolidated financial information as of and for the years ended December 31, 2007, 2008 and 2009 are derived from our audited consolidated financial statements which are included elsewhere in this prospectus.

The results indicated below and elsewhere in this prospectus are not necessarily indicative of our future performance. You should read this information together with "Selected Consolidated Financial Data," "Capitalization," "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our consolidated financial statements and related notes included elsewhere in this prospectus.

	For the year ended December 31		
	2007	2008	2009
		(in thousands)	
Consolidated Statement of Operations Data			
Equipment sales	$ 122,091	$ 151,450	$ 147,478
Parts and accessories sales	17,974	28,658	26,864
Net sales	140,065	180,108	174,342
Cost of sales	97,249	117,911	117,264
Gross profit	42,816	62,197	57,078
Selling, general and administrative expense(1)	22,180	26,561	27,639
Income from operations	20,636	35,636	29,439
Interest expense, net	(19,622)	(17,299)	(15,520)
Loss on extinguishment of debt	(2,733)	—	—
Other income (expense), net	(87)	(73)	(90)
Income (loss) before taxes	(1,806)	18,264	13,829
Income tax expense (benefit)	(749)	6,793	3,986
Net income (loss)	$ (1,057)	$ 11,471	$ 9,843
Cash Flow			
Net cash provided by operating activities	$ 20,040	$ 23,411	$ 25,571
Net cash used in investing activities	(1,045)	(3,113)	(8,200)
Net cash provided by (used in) financing activities	$ 4,083	$ (2,265)	$ (1,850)
Other Data			
Adjusted EBITDA	$ 32,745	$ 47,742	$ 45,180
Capital expenditures(2)	$ 1,049	$ 3,160	$ 8,200

	As of December 31,		
	2007	2008	2009
		(in thousands)	
Selected Balance Sheet Data			
Cash and cash equivalents	$ 35,519	$ 53,552	$ 69,073
Total assets	375,649	391,264	404,619
Total debt	234,363	233,513	232,663
Total liabilities	283,705	293,203	296,395
Total redeemable stock and stockholders' equity	91,944	98,061	$ 108,224

(1) Includes management fees incurred with respect to related parties.

(2) Capital expenditures for the year ended December 31, 2009 include $5 million related to the investments in our Milwaukee, Wisconsin and Rockland, Maine manufacturing facilities to support the closure of our Johnson City, Tennessee manufacturing facility.

Discussion of Adjusted EBITDA

In addition to our results under United States generally accepted accounting principles, which we refer to in this prospectus as GAAP, we also use Adjusted EBITDA and Adjusted EBITDA Margin, non-GAAP financial measures, which we consider to be important and supplemental measures of our performance. Adjusted EBITDA represents net income before interest, taxes, depreciation and amortization, as further adjusted for certain non-recurring charges related to the closure of our Johnson City, Tennessee manufacturing facility, certain unrelated legal expenses and a one-time stock option repurchase, as well as management fees paid by us to Aurora Management Partners LLC, a Delaware limited liability company and an affiliate of the Aurora Entities, and ACOF Management, L.P., a Delaware limited partnership and an affiliate of Ares. Adjusted EBITDA Margin is defined as Adjusted EBITDA as a percentage of net sales. We use, and we believe our investors, and in particular, the Aurora Entities and Ares, which we collectively refer to as our principal stockholders in this prospectus, benefit from the presentation of Adjusted EBITDA and Adjusted EBITDA Margin in evaluating our operating performance because they provide us and our investors with additional tools to compare our operating performance on a consistent basis by removing the impact of certain items that management believes do not directly reflect our core operations. In addition, we believe that Adjusted EBITDA and Adjusted EBITDA Margin are useful to investors and other external users of our consolidated financial statements in evaluating our operating performance as compared to that of other companies, because they allow them to measure a company's operating performance without regard to items such as interest expense, taxes, depreciation and depletion, and amortization and accretion, which can vary substantially from company to company depending upon accounting methods and book value of assets and liabilities, capital structure and the method by which assets were acquired. Our management also uses Adjusted EBITDA and Adjusted EBITDA Margin for planning purposes, including the preparation of our annual operating budget and financial projections and believes Adjusted EBITDA Margin is useful in assessing the profitability of our core businesses. Management also uses Adjusted EBITDA to evaluate our ability to make certain payments, including dividends, in compliance with our senior credit facilities, which is determined based on a calculation of "Consolidated Adjusted EBITDA" that is substantially similar to Adjusted EBITDA. The definition of Consolidated Adjusted EBITDA under our senior credit facilities after giving effect to the amendments thereto will differ from our definition of Adjusted EBITDA in this prospectus primarily because the definition in our senior credit facilities after giving effect to the amendments thereto will exclude additional non-cash charges and non-recurring expenses, which we have not incurred during the periods presented. Specifically, Consolidated Adjusted EBITDA under our senior credit facilities after giving effect to the amendments thereto will be comprised of net income before interest, taxes, depreciation and amortization as further adjusted to exclude the effect of:

- expenses for management fees and termination fees paid by us pursuant to our Management Services Agreement;
- non-cash items resulting in an increase in net income for such period that are unusual or otherwise non-recurring items;
- certain non-cash charges including:
    - non-cash impairment charges;
    - non-cash expenses resulting from the grant of stock and stock options and other compensation to our management pursuant to a written incentive plan or agreement;
    - other non-cash items that are unusual or otherwise non-recurring items;
- certain non-recurring expenses including:

- any extraordinary losses and non-recurring charges during any period (including severance, relocation costs, one-time compensation charges and losses or charges associated with interest rate agreements);
- restructuring charges or reserves (including costs related to closure of facilities);
- any transaction costs incurred in connection with the issuance of securities or any refinancing transaction, in each case whether or not such transaction is consummated;
- any fees and expensed related to certain acquisitions permitted under by our senior credit facilities;
- fees, expenses and other transaction costs incurred in connection with this offering and the concurrent amendments to our senior credit facilities;

and to include as a deduction in calculating Consolidated Adjusted EBITDA:

- certain cash payments made during the applicable period reducing reserves or liabilities for accruals made in prior periods but only to the extent such reserves or accruals were excluded from Consolidated Adjusted EBITDA in a prior period; and
- restricted payments made during such period to Douglas Holdings to pay its general administrative costs and expenses (other than restricted payments made to Douglas Holdings for the payment of fees, expenses and other transaction costs incurred in connection with this offering or the concurrent amendments to our senior credit facilities).

Adjusted EBITDA and Adjusted EBITDA Margin have limitations as analytical tools. As a result, you should not consider them in isolation, or as substitutes for net income, operating income, operating income margin, cash flow from operating activities or any other measure of financial performance or liquidity presented in accordance with GAAP. Some of these limitations are:

- Adjusted EBITDA and Adjusted EBITDA Margin do not reflect our cash expenditures or future requirements for capital expenditures or contractual commitments;
- Adjusted EBITDA and Adjusted EBITDA Margin do not reflect changes in, or cash requirements for, our working capital needs;
- Adjusted EBITDA and Adjusted EBITDA Margin do not reflect the interest expense, or the cash requirements necessary to service interest or principal payments, on our indebtedness;
- Although depreciation and amortization are non-cash charges, the assets being depreciated and amortized will often have to be replaced in the future, and Adjusted EBITDA and Adjusted EBITDA Margin do not reflect any cash requirements for such replacements;
- Other companies, including other companies in our industry, may calculate Adjusted EBITDA and Adjusted EBITDA Margin differently than we do, limiting their usefulness as comparative measures; and
- Adjusted EBITDA and Adjusted EBITDA Margin do not reflect tax obligations whether current or deferred.

The Securities and Exchange Commission, which we refer to in this prospectus as the SEC, has adopted rules to regulate the use in filings with the SEC and public disclosures and press releases of non-GAAP financial measures, such as Adjusted EBITDA and Adjusted EBITDA Margin, that are derived on the basis of methodologies other than in accordance with GAAP. These rules require, among other things:

- a presentation with equal or greater prominence of the most comparable financial measure or measures calculated and presented in accordance with GAAP; and

- a statement disclosing the purposes for which our management uses the non-GAAP financial measure.

The rules prohibit, among other things:

- exclusion of charges or liabilities that require cash settlement or would have required cash settlement absent an ability to settle in another manner, from non-GAAP liquidity measures;
- adjustment of a non-GAAP performance measure to eliminate or smooth items identified as non-recurring, infrequent or unusual, when the nature of the charge or gain is such that it is reasonably likely to recur; and
- presentation of non-GAAP financial measures on the face of any financial information.

The following table presents a reconciliation of net income (loss), the most comparable GAAP financial measure, to Adjusted EBITDA as well as the resulting calculation of Adjusted EBITDA Margin, for each of the periods indicated:

	For the year ended December 31,		
	2007	2008	2009
		(in thousands)	
Net income (loss)	$ (1,057)	$ 11,471	$ 9,843
Interest expense—net	19,622	17,299	15,520
Loss on extinguishment of debt	2,733	—	—
Income taxes	(749)	6,793	3,986
Depreciation expense	4,632	4,650	5,797
Amortization	6,164	6,160	6,161
EBITDA	31,345	46,373	$ 41,307
Management fees	1,400	1,369	1,393
Stock option repurchase	—	—	732(1)
Other non-recurring charges	—	—	1,748(2)
Adjusted EBITDA	$ 32,745	$ 47,742	$ 45,180
Adjusted EBITDA Margin(3)	23.4%	26.5%	25.9%

(1) Reflects the stock-based compensation expense associated with the repurchase of stock options from certain of our executives.

(2) Reflects severance expenses and one-time, non-recurring expenses for facility preparation and moving costs related to the closure of our Johnson City, Tennessee facility of $1,054 and certain unrelated legal expenses of $694.

(3) Adjusted EBITDA Margin is defined as Adjusted EBITDA as a percentage of net sales.

RISK FACTORS

An investment in our common stock involves a high degree of risk. You should carefully consider the risks described below and all of the other information contained in this prospectus before deciding whether to purchase our common stock. Our business, prospects, financial condition and operating results could be materially adversely affected by any of these risks, as well as other risks not currently known to us or that we currently consider immaterial. The trading price of our common stock could decline due to any of these risks, and you may lose all or part of your investment. In assessing the risks described below, you should also refer to the other information contained in this prospectus, including our consolidated financial statements and the related notes, before deciding to purchase any shares of our common stock.

Risks Related to Our Business and Industry

Our results of operations depend primarily on the level, timing and location of snowfall. As a result, a decline in snowfall levels in multiple regions for an extended time could cause our results of operations to decline and adversely affect our ability to pay dividends.

As a manufacturer of snow and ice control equipment for light trucks, and related parts and accessories, our sales depend primarily on the level, timing and location of snowfall in the regions in which we offer our products. A low level or lack of snowfall in any given year in any of the snowbelt regions in North America (primarily the Midwest, East and Northeast regions of the United States as well as all provinces of Canada) will likely cause sales of our products to decline in such year as well as the subsequent year, which in turn may adversely affect our results of operations and ability to pay dividends. See "Management's Discussion and Analysis of Financial Condition and Results of Operations—Seasonality and Year-to-Year Variability." A sustained period of reduced snowfall events in one or more of the geographic regions in which we offer our products could cause our results of operations to decline and adversely affect our ability to pay dividends.

The year-to-year variability of our business can cause our results of operations and financial condition to be materially different from year-to-year; whereas the seasonality of our business can cause our results of operations and financial condition to be materially different from quarter-to-quarter.

Because our business depends on the level, timing and location of snowfall, our results of operations vary from year-to-year. Additionally, because the annual snow season typically only runs from October 1 through March 31, our distributors typically purchase our products during the second and third quarters. As a result, we operate in a seasonal business. We not only experience seasonality in our sales, but also experience seasonality in our working capital needs. Consequently, our results of operations and financial condition can vary from year-to-year, as well as from quarter-to-quarter, which could affect our ability to pay dividends. If we are unable to effectively manage the seasonality and year-to-year variability of our business, our results of operations, financial condition and ability to pay dividends may suffer.

If economic conditions in the United States continue to remain weak or deteriorate further, our results of operations, financial condition and ability to pay dividends may be adversely affected.

Historically, demand for snow and ice control equipment for light trucks has been influenced by general economic conditions in the United States, as well as local economic conditions in the snowbelt regions in North America. During the last few years, economic conditions throughout the United States have been extremely weak, and may not improve in the foreseeable future. Weakened economic conditions may cause our end-users to delay purchases of replacement snow and ice control equipment and instead repair their existing equipment, leading to a decrease in our sales of new equipment. Weakened economic conditions may also cause our end-users to delay their purchases of new light trucks. Because our end-users tend to purchase new snow and ice control equipment concurrent with their purchase of new light trucks, their delay in purchasing new light trucks can also result in the

deferral of their purchases of new snow and ice control equipment. The deferral of new equipment purchases during periods of weak economic conditions may negatively affect our results of operations, financial condition and ability to pay dividends.

Weakened economic conditions may also cause our end-users to consider price more carefully in selecting new snow and ice control equipment. Historically, considerations of quality and service have outweighed considerations of price, but in a weak economy, price may become a more important factor. Any refocus away from quality in favor of cheaper equipment could cause end-users to shift away from our products to less expensive competitor products, or to shift away from our more profitable products to our less profitable products, which in turn would adversely affect our results of operations and our ability to pay dividends.

Our failure to maintain good relationships with our distributors, the loss or consolidation of our distributor base or the actions or inactions of our distributors could have an adverse effect on our results of operations and our ability to pay dividends.

We depend on a network of truck equipment distributors to sell, install and service our products. Nearly all of these sales and service relationships are at will, and less than 1% of our distributors have agreed not to offer products that compete with our products. As a result, almost all of our distributors could discontinue the sale and service of our products at any time, and those distributors that primarily sell our products may choose to sell competing products at any time. Further, difficult economic or other circumstances could cause any of our distributors to discontinue their businesses. Moreover, if our distributor base were to consolidate or if any of our distributors were to discontinue their business, competition for the business of fewer distributors would intensify. If we do not maintain good relationships with our distributors, or if we do not provide product offerings and pricing that meet the needs of our distributors, we could lose a substantial amount of our distributor base. A loss of a substantial portion of our distributor base could cause our sales to decline significantly, which would have an adverse effect on our results of operations and ability to pay dividends.

In addition, our distributors may not provide timely or adequate service to our end-users. If this occurs, our brand identity and reputation may be damaged, which would have an adverse effect on our results of operations and ability to pay dividends.

Lack of available financing options for our end-users or distributors may adversely affect our sales volumes.

Our end-user base is highly concentrated among professional snowplowers, who comprise over 50% of our end-users, many of whom are individual landscapers who remove snow during the winter and landscape during the rest of the year, rather than large, well-capitalized corporations. These end-users often depend upon credit to purchase our products. If credit is unavailable on favorable terms or at all, our end-users may not be able to purchase our products from our distributors, which would in turn reduce sales and adversely affect our results of operations and ability to pay dividends.

In addition, because our distributors, like our end-users, rely on credit to purchase our products, if our distributors are not able to obtain credit, or access credit on favorable terms, we may experience delays in payment or nonpayment for delivered products. Further, if our distributors are unable to obtain credit or access credit on favorable terms, they could experience financial difficulties or bankruptcy and cease purchases of our products altogether. Thus, if financing is unavailable on favorable terms or at all, our results of operations and ability to pay dividends would be adversely affected.

The price of steel, a commodity necessary to manufacture our products, is highly variable. If the price of steel increases, our gross margins could decline.

Steel is a significant raw material used to manufacture our products. During 2007, 2008 and 2009, our steel purchases were approximately 12%, 15% and 18% of our revenue, respectively. The steel

industry is highly cyclical in nature, and steel prices have been volatile in recent years and may remain volatile in the future. Steel prices are influenced by numerous factors beyond our control, including general economic conditions domestically and internationally, the availability of raw materials, competition, labor costs, freight and transportation costs, production costs, import duties and other trade restrictions. After experiencing a downward trend in steel prices throughout most of 2009, steel prices may increase as a result of increased demand from the automobile and consumer durable sectors. If the price of steel increases, our variable costs may increase. We may not be able to mitigate these increased costs through the implementation of permanent price increases or temporary invoice surcharges, especially if economic conditions remain weak and our distributors and end-users become more price sensitive. If we are unable to successfully mitigate such cost increases in the future, our gross margins could decline.

We depend on outside suppliers who may be unable to meet our volume and quality requirements, and we may be unable to obtain alternative sources.

We purchase certain components essential to our snowplows and sand and salt spreaders from outside suppliers, including off-shore sources. Most of our key supply arrangements can be discontinued at any time. A supplier may encounter delays in the production and delivery of such products and components or may supply us with products and components that do not meet our quality, quantity or cost requirements. Additionally, a supplier may be forced to discontinue operations. Any discontinuation or interruption in the availability of quality products and components from one or more of our suppliers may result in increased production costs, delays in the delivery of our products and lost end-user sales, which could have an adverse effect on our business and financial condition.

In addition, we have begun to increase the number of our off-shore suppliers. Our increased reliance on off-shore sourcing may cause our business to be more susceptible to the impact of natural disasters, war and other factors that may disrupt the transportation systems or shipping lines used by our suppliers, a weakening of the dollar over an extended period of time and other uncontrollable factors such as changes in foreign regulation or economic conditions. In addition, reliance on off-shore suppliers may make it more difficult for us to respond to sudden changes in demand because of the longer lead time to obtain components from off-shore sources. We may be unable to mitigate this risk by stocking sufficient materials to satisfy any sudden or prolonged surges in demand for our products. If we cannot satisfy demand for our products in a timely manner, our sales could suffer as distributors can cancel purchase orders without penalty until shipment.

We do not sell our products under long-term purchase contracts, and sales of our products are significantly impacted by factors outside of our control; therefore, our ability to estimate demand is limited.

We do not enter into long-term purchase contracts with our distributors and the purchase orders we receive may be cancelled without penalty until shipment. Therefore, our ability to accurately predict future demand for our products is limited. Nonetheless, we attempt to estimate demand for our products for purposes of planning our annual production levels and our long-term product development and new product introductions. We base our estimates of demand on our own market assessment, snowfall figures, quarterly field inventory surveys and regular communications with our distributors. Because wide fluctuations in the level, timing and location of snowfall, economic conditions and other factors may occur, each of which is out of our control, our estimates of demand may not be accurate. Underestimating demand could result in procuring an insufficient amount of materials necessary for the production of our products, which may result in increased production costs, delays in product delivery, missed sale opportunities and a decrease in customer satisfaction. Overestimating demand could result in the procurement of excessive supplies, which could result in increased inventory and associated carrying costs.

If we are unable to enforce, maintain or continue to build our intellectual property portfolio, or if others invalidate our intellectual property rights, our competitive position may be harmed.

We rely on a combination of patents, trade secrets and trademarks to protect certain of the proprietary aspects of our business and technology. We hold approximately 20 U.S. registered trademarks (including the trademarks WESTERN®, FISHER® and BLIZZARD®), 5 Canadian registered trademarks, 28 U.S. issued patents and 15 Canadian patents. Although we work diligently to protect our intellectual property rights, monitoring the unauthorized use of our intellectual property is difficult, and the steps we have taken may not prevent unauthorized use by others. In addition, in the event a third party challenges the validity of our intellectual property rights, a court may determine that our intellectual property rights may not be valid or enforceable. An adverse determination with respect to our intellectual property rights may harm our business prospects and reputation. Third parties may design around our patents or may independently develop technology similar to our trade secrets. The failure to adequately build, maintain and enforce our intellectual property portfolio could impair the strength of our technology and our brands, and harm our competitive position. Although the Company has no reason to believe that its intellectual property rights are vulnerable, previously undiscovered intellectual property could be used to invalidate our rights.

If we are unable to develop new products or improve upon our existing products on a timely basis, it could have an adverse effect on our business and financial condition.

We believe that our future success depends, in part, on our ability to develop on a timely basis new technologically advanced products or improve upon our existing products in innovative ways that meet or exceed our competitors' product offerings. Continuous product innovation ensures that our consumers have access to the latest products and features when they consider buying snow and ice control equipment. Maintaining our market position will require us to continue to invest in research and development and sales and marketing. Product development requires significant financial, technological and other resources. We may be unsuccessful in making the technological advances necessary to develop new products or improve our existing products to maintain our market position. Industry standards, end-user expectations or other products may emerge that could render one or more of our products less desirable or obsolete. If any of these events occur, it could cause decreases in sales, a failure to realize premium pricing and an adverse effect on our business and financial condition.

We face competition from other companies in our industry, and if we are unable to compete effectively with these companies, it could have an adverse effect on our sales and profitability. Price competition among our distributors could negatively affect our market share.

We primarily compete with regional manufacturers of snow and ice control equipment for light trucks. While we are the most geographically diverse company in our industry, we may face increasing competition in the markets in which we operate. In saturated markets, price competition may lead to a decrease in our market share or a compression of our margins, both of which would affect our profitability. Moreover, current or future competitors may grow their market share and develop superior service and may have or may develop greater financial resources, lower costs, superior technology or more favorable operating conditions than we maintain. As a result, competitive pressures we face may cause price reductions for our products, which would affect our profitability or result in decreased sales and operating income. Additionally, the potential for saturation of the markets in which we compete or channel conflicts among our brands and shifts in consumer preferences may increase these competitive pressures or may result in increased competition among our distributors and affect our sales and profitability. In addition, price competition among the distributors that sell our products could lead to margin erosion among our distributors, which could in turn result in compressed margins or loss of market share for us. Management believes that after Douglas, the next largest competitors in

the market for snow and ice control equipment for light trucks are BOSS and Meyer, respectively, and accordingly represent our primary competitors for market share.

We are subject to complex laws and regulations, including environmental and safety regulations, that can adversely affect the cost, manner or feasibility of doing business.

Our operations are subject to certain federal, state and local laws and regulations relating to, among other things, the generation, storage, handling, emission, transportation, disposal and discharge of hazardous and non-hazardous substances and materials into the environment, the manufacturing of motor vehicle accessories and employee health and safety. We cannot be certain that existing and future laws and regulations and their interpretations will not harm our business or financial condition. We currently make and may be required to make large and unanticipated capital expenditures to comply with environmental and other regulations, such as:

- applicable motor vehicle safety standards established by the National Highway Traffic Safety Administration;
- reclamation and remediation and other environmental protection; and
- standards for workplace safety established by the Occupational Safety and Health Administration.

While we monitor our compliance with applicable laws and regulations and attempt to budget for anticipated costs associated with compliance, we cannot predict the future cost of such compliance. During 2009 we expended approximately $450,000 related to compliance with such regulations and could expend similar or greater amounts in the future in the event of future legislation changes or unforeseen events, such as a workplace accident or environmental discharge, or if we otherwise discover we are in non-compliance with an applicable regulation. In addition, under these laws and regulations, we could be liable for:

- product liability claims;
- personal injuries;
- investigation and remediation of environmental contamination and other governmental sanctions such as fines and penalties; and
- other environmental damages.

Our operations could be significantly delayed or curtailed and our costs of operations could significantly increase as a result of regulatory requirements, restrictions or claims. We are unable to predict the ultimate cost of compliance with these requirements or their effect on our operations.

Financial market conditions have had a negative impact on the return on plan assets for our pension plans, which may require additional funding and negatively impact our cash flows.

Our pension expense and required contributions to our pension plan are directly affected by the value of plan assets, the projected rate of return on plan assets, the actual rate of return on plan assets and the actuarial assumptions we use to measure the defined benefit pension plan obligations. Due to the significant financial market downturn during 2008, the funded status of our pension plans has declined. As of December 31, 2009, our pension plans were underfunded by approximately $9 million. In 2009, contributions to our defined benefit pension plans were approximately $1.4 million. If plan assets continue to perform below expectations, future pension expense and funding obligations will increase, which would have a negative impact on our cash flows. Moreover, under the Pension Protection Act of 2006, it is possible that continued losses of asset values may necessitate accelerated funding of our pension plans in the future to meet minimum federal government requirements.

The statements regarding our industry, market positions and market share in this prospectus are based on our management's estimates and assumptions. While we believe such statements are reasonable, such statements have not been independently verified.

Information contained in this prospectus concerning the snow and ice control equipment industry for light trucks, our general expectations concerning this industry and our market positions and other market share data regarding the industry are based on estimates our management prepared using end-user surveys, anecdotal data from our distributors and distributors that carry our competitors' products, our results of operations and management's past experience, and on assumptions made, based on our management's knowledge of this industry, all of which we believe to be reasonable. These estimates and assumptions are inherently subject to uncertainties, especially given the year-to-year variability of snowfall and the difficulty of obtaining precise information about our competitors, and may prove to be inaccurate. In addition, we have not independently verified the information from any third-party source and thus cannot guarantee its accuracy or completeness, although management also believes such information to be reasonable. Our actual operating results may vary significantly if our estimates and outlook concerning the industry, snowfall patterns, our market positions or our market shares turn out to be incorrect.

We are subject to product liability claims, product quality issues, and other litigation from time to time that could adversely affect our operating results or financial condition.

The manufacture, sale and usage of our products expose us to a risk of product liability claims. If our products are defective or used incorrectly by our end-users, injury may result, giving rise to product liability claims against us. If a product liability claim or series of claims is brought against us for uninsured liabilities or in excess of our insurance coverage, and it is ultimately determined that we are liable, our business and financial condition could suffer. Any losses that we may suffer from any liability claims, and the effect that any product liability litigation may have upon the reputation and marketability of our products, may divert management's attention from other matters and may have a negative impact on our business and operating results. Additionally, we could experience a material design or manufacturing failure in our products, a quality system failure or other safety issues, or heightened regulatory scrutiny that could warrant a recall of some of our products. A recall of some of our products could also result in increased product liability claims. Any of these issues could also result in loss of market share, reduced sales, and higher warranty expense.

We are heavily dependent on our Chief Executive Officer and management team.

Our continued success depends on the retention, recruitment and continued contributions of key management, finance, sale and marketing personnel, some of whom could be difficult to replace. Our success is largely dependent upon our senior management team, led by our Chief Executive Officer and other key managers. The loss of any one or more of such persons could have an adverse effect on our business and financial condition.

Our indebtedness could adversely affect our operations, including our ability to perform our obligations and pay dividends.

As of December 31, 2009, as adjusted to give effect to this offering and the application of the proceeds therefrom (including the redemption of our senior notes), we would have had approximately $122.7 million of senior secured indebtedness and $52 million of available borrowings under our revolving credit facility. We may also be able to incur substantial indebtedness in the future, including senior indebtedness, which may or may not be secured. For example, concurrent with this offering, we intend to increase our existing term loan facility by $40 million. Further, if this offering is completed and all our senior notes are redeemed, our revolving credit facility will mature in May 2012 and our term loan facility will mature in May 2013 with respect to the existing term loans and May 2016 with respect to the additional $40 million of term loans. See "Description of Indebtedness—Senior Credit Facilities."

Our indebtedness could have important consequences to you, including the following:

- we could have difficulty satisfying our debt obligations, and if we fail to comply with these requirements, an event of default could result;
- we may be required to dedicate a substantial portion of our cash flow from operations to required payments on indebtedness, thereby reducing the cash flow available to pay dividends or fund working capital, capital expenditures and other general corporate activities;
- covenants relating to our indebtedness may restrict our ability to make distributions to our stockholders;
- covenants relating to our indebtedness may limit our ability to obtain additional financing for working capital, capital expenditures and other general corporate activities, which may limit our flexibility in planning for, or reacting to, changes in our business and the industry in which we operate;
- we may be more vulnerable to general adverse economic and industry conditions;
- we may be placed at a competitive disadvantage compared to our competitors with less debt; and
- we may have difficulty repaying or refinancing our obligations under our senior credit facilities on their respective maturity dates.

If any of these consequences occur, our financial condition, results of operations and ability to pay dividends could be adversely affected. This, in turn, could negatively affect the market price of our common stock, and we may need to undertake alternative financing plans, such as refinancing or restructuring our debt, selling assets, reducing or delaying capital investments or seeking to raise additional capital. We cannot assure you that any refinancing would be possible, that any assets could be sold, or, if sold, of the timing of the sales and the amount of proceeds that may be realized from those sales, or that additional financing could be obtained on acceptable terms, if at all.

Our variable rate indebtedness subjects us to interest rate risk, which could cause our debt service obligations to increase significantly and could impose adverse consequences.

Certain of our borrowings, including our term loan and any revolving borrowings under our senior credit facilities, are at variable rates of interest and expose us to interest rate risk. In addition, the interest rate on any revolving borrowings is subject to an increase in the interest rate if the average daily availability under our revolving credit facility falls below a certain threshold. If interest rates increase, our debt service obligations on the variable rate indebtedness would increase even though the amount borrowed remained the same, and our net income and cash flows would correspondingly decrease.

Our senior credit facilities impose restrictions on us, which may also prevent us from capitalizing on business opportunities and taking certain corporate actions. One of these facilities also includes minimum availability requirements, which if unsatisfied, could result in liquidity events that may jeopardize our business.

Our senior credit facilities contain, and future debt instruments to which we may become subject may contain, covenants that limit our ability to engage in activities that could otherwise benefit our company, including restrictions on our ability to:

- incur, assume or permit to exist additional indebtedness or contingent obligations;
- incur liens and engage in sale and leaseback transactions;
- make loans and investments in excess of agreed upon amounts;

- declare dividends, make payments or redeem or repurchase capital stock in excess of agreed upon amounts and subject to certain other limitations;
- engage in mergers, acquisitions and other business combinations;
- prepay, redeem or purchase certain indebtedness or amend or alter the terms of our indebtedness;
- sell assets;
- transact with affiliates or our stockholders; and
- alter the business that we conduct.

Our revolving credit facility also includes limitations on capital expenditures and requires us to maintain at least $6 million of borrowing availability. Failure to maintain such availability would constitute a "liquidity event" under our revolving credit facility, and as a result we would be required to comply with a fixed charge coverage ratio test. In addition, if such a liquidity event (or an event of default) occurs and is continuing, subject to certain limited cure rights, all proceeds of our accounts receivable and other collateral will be applied to reduce obligations under our revolving credit facility, jeopardizing our ability to meet other obligations. Our ability to comply with the covenants contained in our senior credit facilities or in the agreements governing our future indebtedness, and our ability to avoid liquidity events, may be affected by events, or our future performance, which are subject to factors beyond our control, including prevailing economic, financial, industry and weather conditions, such as the level, timing and location of snowfall and general economic conditions in the snowbelt regions of North America. A failure to comply with these covenants could result in a default under our senior credit facilities, which could prevent us from paying dividends, borrowing additional amounts and using proceeds of our inventory and accounts receivable, and also permit the lenders to accelerate the payment of such debt. If any of our debt is accelerated or if a liquidity event (or event of default) occurs that results in collateral proceeds being applied to reduce such debt, we may not have sufficient funds available to repay such debt and our other obligations, in which case, our business could be halted and such lenders could proceed against any collateral securing that debt. Further, if the lenders accelerate the payment of the indebtedness under our senior credit facilities, our assets may not be sufficient to repay in full the indebtedness under our senior credit facilities and our other indebtedness, if any. We cannot assure you that these covenants will not adversely affect our ability to finance our future operations or capital needs to pursue available business opportunities or react to changes in our business and the industry in which we operate.

The closure of our Johnson City, Tennessee manufacturing facility may entail risks to our business.

As part of our lean manufacturing strategy to lower our fixed costs, we plan to close our Johnson City, Tennessee manufacturing facility in mid 2010, and thereby reduce our manufacturing facilities from three to two. In connection with this closure, we plan to relocate our Johnson City operations and equipment into our remaining two facilities. We cannot assure you that we will realize contemplated cost savings from the closure of this facility. In addition, there may be risks associated with this closure for which we are unprepared, such as labor and employment litigation, difficulties implementing a smooth transition and the possibility that this closure leaves us with insufficient manufacturing capacity. It is therefore possible that our business could be negatively affected by the closure of this facility.

Risks Related to this Offering of Our Common Stock

An active, liquid and orderly trading market for our common stock may not develop or be maintained, which could limit your ability to sell shares of our common stock.

Prior to the consummation of this offering, there has not have been a public market for our common stock. Although we have applied to list our common stock on The New York Stock Exchange, which we refer to in this prospectus as the NYSE, an active public market for our shares may not develop or be sustained after this offering. The initial public offering price for our shares will be determined by negotiations between us and representatives of the underwriters, and may not be indicative of the market price at which shares of our common stock will trade after this offering. In particular, we cannot assure you that you will be able to resell your shares of our common stock at or above the initial public offering price.

The market price of our common stock may be volatile, which could cause the value of your investment to decline or could subject us to securities class action litigation.

Even if a trading market develops, the market price of shares of our common stock could be subject to wide fluctuations in response to the many risk factors listed in this section and others beyond our control, including:

- variations in our quarterly operating results;
- our announcement of actual results for a fiscal period that are higher or lower than projected or expected results or our announcement of revenue or earnings guidance that is higher or lower than expected;
- unfavorable commentary from securities analysts or the failure of securities analysts to cover our common stock after this offering;
- sales of our common stock by our principal stockholders;
- changes in our dividend payment policy or failure to execute our existing policy;
- actions of competitors;
- changes in applicable government and environmental regulations; or
- general economic and market conditions.

Furthermore, the stock markets recently have experienced extreme price and volume fluctuations that have affected and continue to affect the market prices of equity securities of many companies. These fluctuations often have been unrelated or disproportionate to the operating performance of those companies. These broad market and industry fluctuations, as well as general economic, political and market conditions such as recessions or interest rate changes may cause the market price of shares of our common stock to decline. If the market price of a share our common stock after this offering does not exceed the initial public offering price, you may not realize any return on your investment in us and may lose some or all of your investment.

In addition, in the past, companies that have experienced volatility in the market price of their stock have been subject to securities class action litigation. We may be the target of this type of litigation in the future. Securities litigation against us could result in substantial costs and divert our management's attention from other business concerns, which could seriously harm our business.

If securities or industry analysts do not publish research or reports about our business, or if they change their recommendations regarding our stock adversely, our stock price and trading volume could decline.

The trading market for our common stock will be influenced by the research and other reports that industry or securities analysts publish about us or our business. We do not currently have any and may never obtain research coverage by industry or financial analysts. If no or few analysts commence coverage of us, the trading price of our stock would likely decrease. Even if we do obtain analyst coverage, if one or more of the analysts who cover us downgrade our stock, our stock price would likely decline. If one or more of these analysts cease coverage of our company or fail to regularly publish reports on us, we could lose visibility in the financial markets, which in turn could cause our stock price or trading volume to decline.

Substantial future sales of our common stock in the public market could cause our stock price to fall.

Additional sales of our common stock in the public market after the consummation of this offering, or the perception that these sales could occur, could cause the market price of our common stock to decline. Upon consummation of this offering, we will have 19,769,539 shares of common stock outstanding. The 10,000,000 shares of our common stock sold in this offering, which includes 5,100,000 shares of common stock offered by the selling stockholders, as well as any shares disposed of upon exercise of the underwriters' over-allotment option, will be freely transferable without restriction or additional registration under the Securities Act of 1933, as amended, which we refer to in this prospectus as the Securities Act. The remaining 9,769,539 shares of common stock outstanding after this offering will be available for sale subject to, and in accordance with, the provisions of the Securities Act and the rules and regulations promulgated thereunder and to the extent applicable, any lock-up agreements that we, our officers, directors, employees and stockholders enter into. As any resale restrictions end, the market price of our common stock could decline if the holders of those shares sell them or are perceived by the market as intending to sell them. In addition, pursuant to certain provisions of our securityholders agreement that will remain in effect after the consummation of this offering, all securityholders who are parties to the securityholders agreement are entitled to certain "piggy-back" registration rights with respect to shares of our common stock, and certain securityholders are entitled to demand registration of their shares. See "Certain Relationships and Related Party Transactions—Securityholders Agreement." Registration of any such shares under the Securities Act would result in such shares becoming freely tradable without restriction under the Securities Act immediately upon the effectiveness of the registration.

As a new investor, you will experience immediate and substantial dilution.

Purchasers in this offering will immediately experience substantial dilution in net tangible book value of the shares they purchase. Because our common stock was originally sold at prices substantially lower than the assumed initial public offering price of $15.00 per share (which is the mid-point of the estimated offering price range set forth on the cover page of this prospectus) that you will pay, you will suffer immediate dilution of $18.92 per share in net tangible book value. The exercise of outstanding options, 747,935 of which were outstanding and exercisable as of December 31, 2009, and the conversion of deferred stock units, 174,230 of which were outstanding and exercisable as of December 31, 2009, may result in further dilution. See "Dilution."

Since no proceeds from this offering will be used to grow our business or develop new products, the value of your investment in our common stock could be negatively impacted.

We will use the net proceeds of this offering together with an increase in our term loan facility to redeem our senior notes (including accrued and unpaid interest and the related redemption premium). We will not receive any proceeds from the sale of our common stock by the selling stockholders. See "Use of Proceeds." We will not use any of the proceeds from this offering to grow our business or

develop new products, which could negatively impact the value of your investment in our common stock.

Our principal stockholders will hold a significant portion of our common stock and may have different interests than us or you in the future.

Immediately after the consummation of this offering our principal stockholders will have the right to vote or direct the vote of approximately 48.80% (or 41.29% if the underwriters exercise their over-allotment option in full) of our voting power. Consequently, our principal stockholders will, and will for the foreseeable future continue to, be able to influence the election and removal of our directors and influence our corporate and management policies, including virtually all matters requiring stockholder approval, such as potential mergers or acquisitions, asset sales and other significant corporate transactions. This concentration of ownership may delay or deter possible changes in control of our company, which may reduce the value of your investment. We cannot assure you that the interests of our principal stockholders will coincide with the interests of our other holders of common stock. See "Certain Relationships and Related Party Transactions—Securityholders Agreement."

Provisions of Delaware law and our charter documents could delay or prevent an acquisition of us, even if the acquisition would be beneficial to you.

Provisions in our certificate of incorporation and bylaws that we intend to adopt prior to the consummation of this offering may have the effect of delaying or preventing a change of control or changes in our management. These provisions include:

- the absence of cumulative voting in the election of our directors, which means that the holders of a majority of our common stock may elect all of the directors standing for election;
- the ability of our Board of Directors to issue preferred stock with voting rights or with rights senior to those of our common stock without any further vote or action by the holders of our common stock;
- the division of our Board of Directors into three separate classes serving staggered three-year terms;
- the ability of our stockholders to remove our directors is limited to cause and only by the vote of at least 66 2/3% of the outstanding shares of our common stock;
- the prohibition on our stockholders from acting by written consent and calling special meetings;
- the requirement that our stockholders provide advance notice when nominating our directors or proposing business to be considered by the stockholders at an annual meeting of stockholders; and
- the requirement that our stockholders must obtain a 66 2/3% vote to amend or repeal certain provisions of our certificate of incorporation.

We are also subject to Section 203 of the Delaware General Corporation Law, which, subject to certain exceptions, prohibits us from engaging in any business combination with any interested stockholder, as defined in that section, for a period of three years following the date on which that stockholder became an interested stockholder. Since the respective affiliates of Aurora Capital Group and Ares Management that are common stockholders became interested stockholders of our company more than three years ago, we are not constrained by this provision with respect to business combinations with these stockholders. See "Description of Capital Stock." This provision, together with the provisions discussed above, could also make it more difficult for you and our other stockholders to elect directors and take other corporate actions, and could limit the price that investors might be willing to pay in the future for shares of our common stock.

If we are unable to assess favorably the effectiveness of our internal control over financial reporting, or if our independent registered public accounting firm is unable to provide an unqualified attestation report on our internal controls, our stock price could be adversely affected.

Pursuant to Section 404 of the Sarbanes-Oxley Act of 2002 and the related rules adopted by the SEC and the Public Company Accounting Oversight Board, beginning with our Annual Report on Form 10-K for the year ending 2011, our management will be required to report on, and our independent registered public accounting firm to attest to, the effectiveness of our internal control over financial reporting. We may encounter problems or delays in completing the implementation of any changes necessary to make a favorable assessment of our internal control over financial reporting. In addition, in connection with the attestation process by our independent registered public accounting firm, we may encounter problems or delays in completing the implementation of any requested improvements and receiving a favorable attestation. If we cannot timely and favorably assess the effectiveness of our internal control over financial reporting, or if our independent registered public accounting firm is unable to provide an unqualified attestation report on our internal control over financial reporting, investor confidence and our stock price could decline.

Risks Relating to Our Dividend Policy

You may not receive the level of dividends provided for in the dividend policy our Board of Directors will adopt or any dividends at all.

We are not obligated to pay dividends on our common stock. Our Board of Directors will adopt a dividend policy, effective upon the consummation of this offering, that reflects an intention to distribute to our stockholders a regular quarterly cash dividend. However, the declaration and payment of all future dividends to holders of our common stock are subject to the discretion of our Board of Directors, which may amend, revoke or suspend our dividend policy at any time and for any reason, including, our financial condition and earnings, legal requirements, taxes and other factors our Board of Directors may deem relevant. The terms of our indebtedness may also restrict us from paying cash dividends on our common stock under certain circumstances.

Over time, our capital and other cash needs may change significantly from our current needs, which could affect whether we pay dividends and the level of any dividends we may pay in the future. If we were to use borrowings under our senior credit facilities to fund our payment of dividends, we would have less cash and/or borrowing capacity available for future dividends and other purposes, which could negatively affect our financial condition, our results of operations, our liquidity and our ability to maintain and expand our business. Accordingly, you may not receive dividends in the intended amounts, or at all. Any reduction or elimination of dividends may negatively affect the market price of our common stock.

Our ability to pay dividends will be restricted by agreements governing our debt, including our senior credit facilities, and by Delaware law.

Our senior credit facilities restrict our ability to pay dividends. See "Description of Indebtedness—Senior Credit Facilities" and "Dividend Policy and Restrictions," where we describe the terms of our indebtedness, including provisions limiting our ability to declare and pay dividends. In addition, as a result of general economic conditions, conditions in the lending markets, the results of our business or for any other reason, we may elect or be required to amend or refinance our senior credit facilities, at or prior to maturity, or enter into additional agreements for indebtedness. Any such amendment, refinancing or additional agreement may contain covenants which could limit in a significant manner or entirely our ability to pay dividends to you.

Additionally, under the Delaware General Corporation Law, which we refer to in this prospectus as the DGCL, our Board of Directors may not authorize payment of a dividend unless it is either paid

out of surplus, as calculated in accordance with the DGCL, or if we do not have a surplus, it is paid out of net profits for the fiscal year in which the dividend is declared and/or the preceding fiscal year. See "Dividend Policy and Restrictions."

If, as a result of these restrictions, we are required to reduce or eliminate the payment of dividends, a decline in the market price or liquidity, or both, of our common stock could result. This may in turn result in losses by you.

Douglas Holdings, the issuer of the common stock being offered hereby, is a holding company with no operations of its own and depends on its subsidiaries for cash.

The terms of our senior credit facilities significantly restrict our subsidiaries from paying dividends and otherwise transferring assets to Douglas Holdings. In addition, the terms of our revolving credit facility specifically restricts Douglas Holdings' subsidiaries from paying dividends to Douglas Holdings if we do not maintain minimum availability under our revolving credit facility, and both our senior credit facilities restrict subsidiaries from paying dividends to Douglas Holdings if a default or event of default has occurred and is continuing under our senior credit facilities or if specified liquidity and leverage tests are not satisfied. As of December 31, 2009, we had the necessary availability to pay dividends at the level currently anticipated under our dividend policy, assuming the redemption of our senior notes and the effectiveness of the amendments to our senior credit facilities. We cannot assure you that we will maintain this availability. For a description of our dividend policy and the limitations on the payment of dividends contained in our senior credit facilities, see "Description of Indebtedness" and "Dividend Policy and Restrictions."

Our dividend policy may limit our ability to pursue growth opportunities.

If we pay dividends at the level currently anticipated under our dividend policy, we may not retain a sufficient amount of cash to finance growth opportunities, meet any large unanticipated liquidity requirements or fund our operations in the event of a significant business downturn. In addition, because a significant portion of cash available will be distributed to holders of our common stock under our dividend policy, our ability to pursue any material expansion of our business, including through acquisitions, increased capital spending or other increases of our expenditures, will depend more than it otherwise would on our ability to obtain third party financing. We cannot assure you that such financing will be available to us at all, or at an acceptable cost. If we are unable to take timely advantage of growth opportunities, our future financial condition and competitive position may be harmed, which in turn may adversely affect the market price of our common stock.

Market interest rates may have an effect on the trading value of our shares.

One of the factors that investors may consider in deciding whether to buy or sell our shares is our dividend rate as a percentage of our shares price relative to market interest rates. If market interest rates increase, prospective investors may demand a higher dividend yield on our shares or seek alternative investments paying higher dividends or interest. As a result, interest rate fluctuations and capital market conditions can affect the market value of our shares. For instance, if interest rates rise, it is likely that the market price of our shares will decrease as market rates on interest-bearing securities, such as bonds, increase.

CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

This prospectus includes forward-looking statements. These forward-looking statements are identified by terms and phrases such as "anticipate," "believe," "intend," "estimate," "expect," "continue," "should," "could," "may," "plan," "project," "predict," "will" and similar expressions and include references to assumptions and relate to our future prospects, developments and business strategies. Factors that could cause our actual results to differ materially from those expressed or implied in such forward-looking statements include, but are not limited to:

- weather conditions, particularly lack of or reduced levels of snowfall;
- a significant decline in economic conditions;
- our inability to maintain good relationships with our distributors;
- lack of available or favorable financing options for our end-users or distributors;
- increases in the price of steel or other materials necessary for the production of our products that cannot be passed on to our distributors;
- the inability of our suppliers to meet our volume or quality requirements;
- our inability to protect or continue to build our intellectual property portfolio;
- our inability to develop new products or improve upon existing products in response to end-user needs;
- losses due to lawsuits arising out of personal injuries associated with our products; and
- our inability to compete effectively against competition.

We undertake no obligation to revise the forward-looking statements included in this prospectus to reflect any future events or circumstances. Our actual results, performance or achievements could differ materially from the results expressed in, or implied by, these forward-looking statements. Factors that could cause or contribute to such differences are discussed in this prospectus under the caption "Risk Factors" as well as elsewhere in this prospectus.

INDUSTRY INFORMATION

Information contained in this prospectus concerning the snow and ice control equipment industry for pickup trucks and sport utility vehicles, which we refer to as light trucks in this prospectus, our general expectations concerning this industry and our market positions and other market share data regarding this industry including, without limitation, statements with respect to the relative size of our installed base, our distribution network, operational efficiency, customer service and responsiveness, and shipping performance, are based on our general knowledge of our industry and competitors. This general knowledge is derived from estimates our management prepared using end-user surveys, anecdotal data from our distributors and distributors that carry our competitors' products, our results of operations and management's past experience, and on assumptions made by our management, based on its knowledge of this industry, all of which we believe to be reasonable. These estimates and assumptions are inherently subject to uncertainties and may prove to be inaccurate. In addition, we have not independently verified the information contained in any independent third-party source, although management also believes such information to be reasonable.

USE OF PROCEEDS

We estimate that we will receive net proceeds from this offering (after deducting underwriting discounts and commissions and our estimated offering expenses) of approximately $64.4 million based on the assumed initial public offering price of $15.00 per share, which is the mid-point of the range set forth on the cover page of this prospectus. We will not receive any proceeds from the sale of our common stock by the selling stockholders in this offering. We will use the net proceeds to us from this offering, together with the $40 million increase in our term loan facility, as follows (in millions of dollars):

Sources	
Gross offering proceeds to us	$ 73.5
Increase in term loan facility	40.0
Cash(1)	60.6
Total sources	$ 174.1
Uses	
Redemption of senior notes(2)	$ 157.3
Estimated fees and expenses related to this offering	$ 9.1
Other estimated fees, expenses and other(3)	7.6
Total uses	$ 174.1

(1) Includes approximately $0.6 million of proceeds due to the voluntary repayment upon the consummation of this offering of a portion of certain loans to former management. See "Certain Relationships and Related Party Transactions—Related Party Transactions—Promissory Notes/Pledge and Security Agreements." After giving effect to this offering and the transactions described above, we would have had approximately $9.1 million of cash on hand based on our cash on hand as of December 31, 2009.

(2) Includes the estimated related redemption premium of $2.9 million on our senior notes and accrued interest through the anticipated redemption date (30 days following the expected consummation date of this offering). Our senior notes bear interest at a rate of $7^{3}/4\%$ per annum and are scheduled to mature on January 15, 2012.

(3) Includes an aggregate of $5.8 million that will be paid to Aurora Management Partners, LLC and ACOF Management, LP in connection with the amendment and restatement of the Management Services Agreement and that will be expensed upon the consummation of this offering. See "Certain Relationships and Related Party Transactions—Management Services Agreement." Also includes $1.8 million of financing fees incurred in connection with the increase in our term loan, that will be partially capitalized. Additionally, this includes $2,000 that will be paid to Aurora Equity Partners II L.P. and Ares in connection with our redemption of the one share of Series B preferred stock and one share of Series C preferred stock held by Aurora Equity Partners II L.P. and Ares, respectively.

DIVIDEND POLICY AND RESTRICTIONS

General

During 2008 and 2009, we did not declare or pay any cash dividends on our common stock. Our Board of Directors will, however, adopt a dividend policy, effective upon the consummation of this offering, that reflects an intention to distribute to our stockholders a regular quarterly cash dividend. This policy reflects our present judgment that it is in the best interest of our stockholders to distribute to them a significant portion of the cash generated by our business. We believe our dividend policy will limit, but not preclude, our ability to pursue growth opportunities. This limitation could be significant, for example, with respect to large acquisitions and growth opportunities that require cash investments in amounts greater than our available cash or external financing resources.

In accordance with this dividend policy and based upon our Board of Directors' review of our historical results of operations and the restrictions in our debt instruments, we currently intend to pay a quarterly dividend on our common stock, commencing during the first full fiscal quarter following the consummation of this offering in equal quarterly installments at an initial annual rate of $0.78 per share.

There can be no assurance that we will declare or pay any cash dividends. The declaration and payment of these dividends to holders of our common stock will be at the discretion of our Board of Directors and will depend upon many factors, including our financial condition or earnings, legal requirements, taxes and other factors our Board of Directors may deem to be relevant. The terms of our indebtedness may also prevent us from paying cash dividends on our common stock under certain circumstances. See "Risk Factors—Our ability to pay dividends will be restricted by agreements governing our debt, including our senior credit facilities, and by Delaware law," "—Restrictions on Payment of Dividends" and "Description of Indebtedness." Over time, our capital and other cash needs may change significantly from our current needs, which could affect whether we pay dividends and the level of any dividends we may pay in the future. Moreover, our Board of Directors may amend, revoke or suspend our dividend policy at any time and for any reason. Accordingly, you may not receive dividends in the intended amounts, or at all.

Restrictions on Payment of Dividends

Our ability to pay dividends will be restricted by current and future agreements governing our debt, including our senior credit facilities and by Delaware law.

Senior Credit Facilities

Our senior credit facilities, which are comprised of a $60 million senior secured revolving credit facility, which we refer to in this prospectus as our revolving credit facility, and an $85 million senior secured term loan facility (expected to increase by $40 million concurrent with the closing of this offering), which we refer to in this prospectus as our term loan facility, impose limitations on our ability to pay dividends. Under the restricted payments covenants for each of our senior credit facilities, we generally are restricted from paying dividends on our common stock other than dividends solely in shares of common stock to holders of that class. However, so long as no default or event of default and, in the case of our revolving credit facility only, no "liquidity event," has occurred and is continuing or would result from the payment, (a) subject to the Maximum Restricted Payment Amount described below, we can make restricted payments, including dividends, in an amount equal to the greater of (i) the Restricted Payment Amount described below and (ii) $16 million in the aggregate for any four-fiscal quarter period, and (b) we can make an additional $10 million in dividends or other restricted payments. Our payment of dividends under clause (a) above is also currently subject to satisfaction of the following conditions: (i) the aggregate amount of cash we have in deposit accounts subject to a control agreement in favor of the agent under our senior credit facilities and availability under our

revolving credit facility must be at least $12 million and (ii) a total leverage ratio test of 6.0 to 1.0. To the extent, subsequent to this offering, Douglas Holdings issues additional capital stock, up to $25 million of such additional proceeds may also be used for restricted payments, including dividends. The amount available for dividends pursuant to the Restricted Payment Amount, the additional $10 million and the $25 million of proceeds of future equity issuances may also be used for restricted payments other than dividends (including certain payments of indebtedness, redemptions of stock, payments to retire options and warrants and payment of certain management fees), certain investments and certain payments of debt. To the extent that these amounts are used for a payment other than dividends, the amount available to be used for the payment of dividends would be reduced accordingly. Assuming the redemption of our senior notes and the amendments to our senior credit facilities had taken effect as of February 28, 2010, we would have been permitted to pay an aggregate of $26.7 million in dividends to our stockholders as of such date.

A "liquidity event" would occur if our availability under our revolving credit facility is less than $6 million (or if additional revolving commitments are made under our revolving credit facility, $6 million plus 10 percent of the aggregate amount of such increased commitments).

"Restricted Payment Amount" is generally defined under our senior credit facilities to mean, as of any date of determination, an amount (which can be less than zero) equal to (a) the difference (but not less than zero) between (i) "Restricted Payment EBITDA" and (ii) the product of 2.0 multiplied by our cumulative interest expense (determined, in each case, for the period commencing on the first day of the first full fiscal quarter after May 21, 2007 through and including the last full fiscal quarter (taken as one accounting period) preceding such date of determination), *plus* (b) the net cash proceeds received by us from a capital contribution or sale of capital stock after May 21, 2007 subject to certain adjustments for investments and other restricted payments (including any dividends utilizing the Restricted Payment Amount or any dividends utilizing the $16 million and $10 million provisions described above) and certain debt repayments.

"Restricted Payment EBITDA" under our senior credit facilities is a measurement of cash flow defined in our senior credit facilities reflecting our Consolidated Adjusted EBITDA as further adjusted for purposes of the dividend and restricted payments covenant by:

- excluding the effect of:
  - all non-recurring gains and losses,
  - interest attributable to indebtedness under sale and leaseback transactions, and
  - dividends accrued and payable on preferred stock (other than dividends accrued and payable solely in certain of our capital stock), and
- including in the calculation of Restricted Payment EBITDA all cash interest income to the extent reducing Consolidated Adjusted EBITDA.

"Maximum Restricted Payment Amount" is defined under our senior credit facilities to mean an amount for any four-fiscal quarter period determined by reference to Consolidated Adjusted EBITDA for the four-fiscal quarter period ending immediately prior to any given date of measurement, equal to, (a) if Consolidated Adjusted EBITDA is greater than or equal to $30 million and less than or equal to $40 million for the relevant test period, $24 million, (b) if Consolidated Adjusted EBITDA is greater than or equal to $27 million and less than $30 million for the relevant test period, $12 million, (c) if Consolidated Adjusted EBITDA is greater than or equal to $25 million and less than $27 million for the relevant test period, $8 million, and (d) if Consolidated Adjusted EBITDA is less than $25 million for the relevant test period, $0. If Consolidated Adjusted EBITDA is greater than $40 million for the relevant test period, the Maximum Restricted Payment Amount does not apply.

The foregoing is a summary of the actual provisions that are included in our senior credit facilities after giving effect to the amendments to be entered into concurrently with the closing of this offering, copies of which have been or will be filed with the SEC as exhibits to the registration statement of which this prospectus forms a part. For a description of additional terms relating to our senior credit facilities, see "Description of Indebtedness—Senior Credit Facilities."

Delaware Law

Under Delaware law, our Board of Directors may not authorize payment of a dividend unless either it is paid out of our "surplus" (which is defined as total assets at fair market value minus total liabilities (including contingent liabilities) minus statutory capital), or if we do not have a surplus, it is paid out of our net profits for the fiscal year in which the dividend is declared and/or the preceding fiscal year. The value of a corporation's assets can be measured in a number of ways and may not necessarily equal their book value. The value of our capital may be adjusted from time to time by our Board of Directors. Our Board of Directors may base this determination on our financial statements, a fair valuation of our assets or another reasonable method. Although we believe we will be permitted to pay dividends at the anticipated levels in compliance with Delaware law, our Board of Directors will periodically seek to assure itself that the statutory requirements will be met before actually declaring dividends. In future periods, our Board of Directors may seek opinions from outside valuation firms to the effect that our solvency or assets are sufficient to allow payment of dividends, and such opinions may not be forthcoming. If we sought and were not able to obtain such an opinion, we likely would not be able to pay dividends. Douglas Holdings, the issuer of the common stock offered hereby, is a holding company and conducts all of its operations through its subsidiaries. As a result, Douglas Holdings will rely principally on distributions from its subsidiaries to have funds available for the payment of dividends. Each of our subsidiaries was formed in Delaware. As a result, they are also subject to the similar considerations and limitations under Delaware law on distributions.

CAPITALIZATION

The following table sets forth as of December 31, 2009, our capitalization:

- on an actual basis;
- on an as adjusted basis to give effect to:
  - the filing of our fourth amended and restated certificate of incorporation, which will occur prior to the consummation of this offering, and that will provide for, among other things, the authorization of 200,000,000 shares of common stock and 5,000,000 shares of preferred stock and a 23.75-for-one stock split of our common stock;
  - the $5.8 million fee payable pursuant to the amendment and restatement of our Management Services Agreement;
  - the receipt of net proceeds from the sale of 4,900,000 shares of common stock by us in this offering at an assumed initial public offering price of $15.00 per share, which is the mid-point of the range set forth on the cover page of this prospectus, after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us;
  - the redemption of our senior notes, including the accrued and unpaid interest thereon through the anticipated redemption date (30 days following the consummation of this offering) and the associated redemption premium for a total of approximately $157.3 million and the write-off of deferred financing fees incurred in connection with our senior notes which are currently capitalized;
  - the redemption of our Series B preferred stock and Series C preferred stock for a total of $2,000; and
  - the borrowing of an additional $40 million under our term loan facility and the related incurrence of $1.8 million in financing fees, a portion of which will be capitalized.

This table should be read together with "Use of Proceeds," "Selected Consolidated Financial Data," "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our consolidated financial statements and related notes included elsewhere in this prospectus.

	December 31, 2009	
	Actual	As Adjusted
	(in thousands, except share data)	
Indebtedness:		
Revolving loan	$ —	$ —
Term loan	82,663	122,663
$7^3/4$% senior notes due 2012	150,000	—
Other indebtedness	—	—
Total indebtedness	232,663	122,663
Redeemable preferred stock, Series A, par value $0.01 per share, 65,000 shares authorized, no shares outstanding actual, no shares authorized or outstanding as adjusted	—	—
Redeemable preferred stock, Series B, par value $0.01 per share, 1 share authorized, 1 share outstanding actual, no shares authorized or outstanding as adjusted	1	—
Redeemable preferred stock, Series C, par value $0.01 per share, 1 share authorized, 1 share outstanding actual, no shares authorized or outstanding as adjusted	1	—
Stockholders' equity		
Common stock, par value $0.01 per share, 1,000,000 shares authorized, 607,231 shares outstanding actual, 200,000,000 shares authorized, 19,769,539 shares outstanding as adjusted(1)	6	198
Stockholders' notes receivable	(1,013)	(456)
Additional paid-in capital	60,111	124,828
Accumulated other comprehensive loss	(3,937)	(3,937)
Retained earnings	53,055	42,519
Total stockholders' equity	108,222	163,152
Total capitalization	$ 340,887	$ 285,815

(1) As adjusted common stock outstanding excludes the conversion of 174,230 deferred stock units into common stock as these units do not convert into common stock until the expiration of the lock-up agreements entered into by the holders in connection with this offering. See "Underwriting."

DILUTION

If you purchase shares of our common stock, you will experience immediate and substantial dilution. Dilution is the amount by which the offering price paid by the purchasers of our common stock to be sold in this offering will exceed the net tangible book value per share of our common stock after the offering. Net tangible book value per share represents the amount of total tangible assets (total assets less intangible assets) less total liabilities, divided by shares of our common stock outstanding, as of that date. The adjusted net tangible book value per share presented below is equal to the amount of our total tangible assets (total assets less intangible assets) less total liabilities, as adjusted to give effect to the 23.75-for-one stock split of our common stock effected prior to the consummation of this offering, the redemption of our senior notes, $40 million in additional borrowings pursuant to our increased term loan facility and the redemption of our Series B preferred stock and Series C preferred stock, divided by the number of shares of our common stock outstanding as of December 31, 2009. After giving effect to the foregoing and our sale of 4,900,000 shares of common stock in this offering at an assumed initial public offering price of $15.00 per share (which is the mid-point of the estimated offering price range set forth on the cover page of this prospectus), our as adjusted net tangible book value as of December 31, 2009 would have been a deficit of $77.5 million, or $(3.92) per share of common stock. This represents an immediate increase in net tangible book value of $5.23 per share to the existing stockholders and an immediate dilution in net tangible book value of $18.92 per share to new investors.

The following table illustrates this dilution on a per share basis:

Assumed initial public offering price per share	$ 15.00
Net tangible book value per share at December 31, 2009	$ (9.15)
Increase in net tangible book value per share attributable to new investors	$ 5.23
Adjusted net tangible book value per share	$ (3.92)
Dilution per share to new investors	$ 18.92

A $1.00 increase or decrease in the assumed initial public offering price of $15.00 per share would increase or decrease our adjusted net tangible book value by $4.6 million, the net tangible book value per share after the consummation of this offering by $0.23 and the dilution per share to new investors by $0.77, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, any increase or decrease in the number of shares that we (but not the selling stockholders) sell in this offering will increase or decrease our net proceeds by such increase or decrease, as applicable, multiplied by the offering price per share, less underwriting discounts and commissions and offering expenses. Any exercise by the underwriters of their over-allotment option, whether in full or part, will not impact our adjusted net tangible book value and corresponding dilution per share to new investors as all such proceeds will be received by the selling stockholders.

The following table summarizes, on the same as adjusted basis as of December 31, 2009, the total number of shares of common stock purchased from us or from the selling stockholders, the total

consideration paid and the average price per share paid by the existing stockholders and by new investors purchasing shares in this offering:

	Shares Purchased		Total Consideration		Average Price per Share
	Number	Percent	Amount	Percent	
Existing stockholders	14,869,539(1)	75.2%	$ 61.6 million	45.6%	$ 4.14
New investors	4,900,000	24.8	73.5 million	54.4	15.00
Total	19,769,539	100%	$ 135.1 million	100%	$ 6.83

(1) Includes shares issued upon exercise of stock options in connection with this offering and shares of restricted stock to be granted to certain employees in connection with this offering.

If the underwriters' over-allotment option is exercised in full, the number of shares held by the existing stockholders after the consummation of this offering would be reduced to 42% of the total number of shares of our common stock outstanding after consummation of this offering, and the number of shares held by new investors would increase to 11,500,000, or 58% of the total number of shares of our common stock outstanding after this offering.

If all our outstanding stock options and deferred stock units had been exercised or converted to common stock as of December 31, 2009, assuming the treasury stock method, our net tangible book value as of December 31, 2009 would have been approximately $(8.56) per share of our common stock, and our adjusted net tangible book value after giving effect to this offering would have been $(3.79) per share, representing dilution in our adjusted net tangible book value per share to new investors of $18.79.

SELECTED CONSOLIDATED FINANCIAL DATA

The following table sets forth our selected historical consolidated financial data for the periods and at the dates indicated. The selected historical consolidated financial data as of December 31, 2007, 2008 and 2009 and for the three years in the period ended December 31, 2009 are derived from our audited consolidated financial statements included elsewhere in this prospectus.

The selected historical consolidated financial data for the years ended December 31, 2005 and 2006 are derived from our historical financial statements not included in this prospectus.

You should read the selected consolidated financial data presented on the following pages in conjunction with our consolidated financial statements and related notes appearing elsewhere in this prospectus as well as our "Risk Factors" and "Management's Discussion and Analysis of Financial Condition and Results of Operations."

	As of December 31,				
	2005	2006	2007	2008	2009
			(in thousands)		
Selected Balance Sheet Data					
Cash and cash equivalents	$ 36,902	$ 12,441	$ 35,519	$ 53,552	$ 69,073
Total current assets	87,437	70,367	91,491	115,414	133,534
Total assets	390,915	365,168	375,649	391,264	404,619
Total current liabilities	32,994	18,089	19,013	23,858	25,187
Total debt	239,900	227,608	234,363	233,513	232,663
Total liabilities	283,473	271,447	283,705	293,203	296,395
Total redeemable stock and stockholders' equity	107,442	93,721	91,944	98,061	$ 108,224

	For the year ended December 31,				
	2005	2006	2007	2008	2009
			(in thousands, except per share data)		
Consolidated Statement of Operations Data					
Total sales	$ 183,608	$ 145,779	$ 140,065	$ 180,108	$ 174,342
Gross profit	71,920	45,232	42,816	62,197	57,078
Income from operations	46,799	20,459	20,636	35,636	29,439
Income tax expense (benefit)	10,978	443	(749)	6,793	3,986
Net income (loss)	19,121	197	(1,057)	11,471	9,843
Net income (loss) per basic share(1)	$ 29.79	$ (0.36)	$ (1.74)	$ 18.64	$ 16.21
Net income (loss) per diluted share(1)	$ 27.35	$ (0.36)	$ (1.74)	$ 18.20	$ 15.85
Net income (loss) per basic share, as adjusted(2)	$ 1.25	$ 0.02	$ (0.07)	$ 0.79	$ 0.68
Net income (loss) per diluted share, as adjusted(2)	$ 1.15	$ 0.02	$ (0.07)	$ 0.77	$ 0.67

	For the year ended December 31,				
	2005	2006	2007	2008	2009
			(in thousands)		
Other Data					
Adjusted EBITDA	$ 56,461	$ 32,564	$ 32,745	$ 47,742	$ 45,180
Capital expenditures(3)	$ 3,534	$ 3,449	$ 1,049	$ 3,160	$ 8,200

(1) Represents net income (loss) per share based on our historical capital structure which does not include the impact of the 23.75-for-one stock split of our common stock that will occur prior to the consummation of this offering.

(2) Represents net income (loss) per share after giving effect to a 23.75-for-one stock split of our common stock that will occur prior to the consummation of this offering.

(3) Capital expenditures for the year ended December 31, 2009 include $5 million related to the investments in our Milwaukee, Wisconsin and Rockland, Maine manufacturing facilities to support the closure of our Johnson City, Tennessee manufacturing facility.

The following table presents a reconciliation of net income (loss), the most comparable GAAP financial measure, to Adjusted EBITDA, for each of the periods indicated. For more information, see the discussion of Adjusted EBITDA in "Prospectus Summary—Summary Historical Consolidated Financial and Operating Data."

	For the year ended December 31,				
	2005	2006	2007	2008	2009
			(in thousands)		
Net income (loss)	$ 19,121	$ 197	$ (1,057)	$ 11,471	$ 9,843
Interest expense—net	16,745	20,095	19,622	17,299	15,520
Loss on extinguishment of debt	—	—	2,733	—	—
Income taxes	10,978	443	(749)	6,793	3,986
Depreciation expense	3,937	4,284	4,632	4,650	5,797
Amortization	4,377	6,166	6,164	6,160	6,161
EBITDA	55,158	31,185	31,345	46,373	$ 41,307
Management fees	1,303	1,379	1,400	1,369	1,393
Stock option repurchase	—	—	—	—	732(1)
Other non-recurring charges	—	—	—	—	1,748(2)
Adjusted EBITDA	$ 56,461	$ 32,564	$ 32,745	$ 47,742	$ 45,180

(1) Reflects the stock-based compensation expense associated with the repurchase of stock options from certain of our executives.

(2) Reflects severance expenses and one-time, non-recurring expenses for facility preparation and moving costs related to the closure of our Johnson City, Tennessee facility of $1,054 and certain unrelated legal expenses of $694.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion and analysis of our financial condition and results of operations for the years ended December 31, 2007, 2008 and 2009 should be read together with our audited and unaudited consolidated financial statements and related notes included elsewhere in this prospectus. Some of the information contained in this discussion and analysis or set forth elsewhere in this prospectus, including information with respect to our plans and strategies for our business, includes forward-looking statements that involve risks and uncertainties. You should review the "Risk Factors" section of this prospectus for a discussion of important factors that could cause actual results to differ materially from the results described in, or implied by, the forward-looking statements contained in this prospectus.

Overview

Our Business

We are the North American leader in the design, manufacture and sale of snow and ice control equipment for light trucks, which consists of snowplows and sand and salt spreaders, and related parts and accessories. We sell our products under the WESTERN®, FISHER® and BLIZZARD® brands which are among the most established and recognized in the industry. We believe that in 2009 our share of the light truck snow and ice control equipment market was greater than 50%. We sell our products exclusively through what we believe is the industry's most extensive North American distributor network, which primarily consists of over 720 truck equipment distributors who purchase directly from us and are located throughout the snowbelt regions in North America (primarily the Midwest, East and Northeast regions of the United States as well as all provinces of Canada). We have longstanding relationships with many of our distributors, with an average tenure of approximately 15 years. We continually seek to grow and optimize our network by opportunistically adding high-quality, well-capitalized distributors in select geographic areas and by cross-selling our industry-leading brands within our distribution network. Beginning in 2005, we began to extend our reach to international markets, establishing distribution relationships in Northern Europe and Asia, where we believe meaningful growth opportunities exist.

The annual demand for snow and ice control equipment is driven primarily by the replacement cycle of the existing installed base, which is predominantly a function of the average life of a snowplow or spreader and is driven by usage and maintenance practices of the end-user. We believe actively-used snowplows are typically replaced, on average, every 7 to 8 years. The primary factor influencing the replacement cycle for snow and ice control equipment is the level, timing and location of snowfall.

Accordingly, our sales depend primarily on the level, timing and location of snowfall. Sales of our products in any given year and region are most heavily influenced by local snowfall levels in the prior snow season. Heavy snowfall during a given winter causes usage of our equipment to increase, resulting in greater wear and tear and shortened life cycles, thereby creating a need for replacement equipment and additional parts and accessories. In addition, when there is a heavy snowfall in a given winter, the increased income our professional snowplowers generate from their professional snowplow activities provides them with increased purchasing power to purchase replacement snow and ice control equipment prior to the following winter. Moreover, in our experience, the timing of snowfall in a given winter also influences our end-users' decision-making process. Because an early snowfall can be viewed as a sign of a heavy upcoming snow season, our end-users may respond to an early snowfall by purchasing replacement snow and ice control equipment earlier than they might otherwise have. Alternatively, light snowfall during a given winter season may cause equipment usage to decrease, thereby extending its useful life and delaying replacement equipment purchases. Because the level, timing and location of snowfall are critical drivers of our sales, our results of operations vary from year-to-year and from season to season as snow fall varies from year to year. See "—Seasonality and

Year-to-Year Variability" and "Risk Factors—The year-to-year variability of our business can cause our results of operations and financial condition to be materially different from year-to-year; whereas the seasonality of our business can cause our results of operations and financial condition to be materially different from quarter-to-quarter."

The demand for our snow and ice control equipment can also be influenced by general economic conditions in the United States, as well as local economic conditions in the snowbelt regions in North America. In stronger economic conditions, our end-users may choose to replace or upgrade existing equipment before its useful life has ended, while in weak economic conditions, our end-users may seek to extend the useful life of equipment, thereby increasing the sales of parts and accessories. While our parts and accessories yield slightly higher gross margins than our snow and ice control equipment, they yield significantly lower revenue than equipment sales, which adversely affects our results of operations. However, since snow and ice control management is a non-discretionary service necessary to ensure public safety and continued personal and commercial mobility in populated areas that receive snowfall, end-users cannot extend the useful life of snow and ice control equipment indefinitely and must replace equipment that has become too worn, unsafe or unreliable, regardless of economic conditions.

Costs of Sales and Selling, General and Administrative Expense

Our costs of sales consist primarily of variable costs, including labor, materials and manufacturing overhead, which average approximately 81% to 84% of our total costs of sales each year. Our selling, general and administrative expenses consist primarily of our expenses for general administration, sales, marketing, advertising, administration, incentive plans and intangible amortization. Because of our highly variable cost structure, we are able to easily reduce our costs of sales during periods following a year in which snowfall levels were low and during periods in which sales are lower. Our selling, general and administrative expenses can also be reduced temporarily in such periods to maximize cash flow.

Although steel is a significant component of our cost of sales, we attempt to mitigate increases in the price of steel by implementing corollary price increases for our products in the form of a permanent price increase (in circumstances in which we believe the increase in the price of steel will be permanent) or temporary surcharges (in circumstances in which we believe the increase in the price of steel will be temporary).

Specifically, our cost of sales increased in 2008 and remained high in 2009 due in large part to elevated steel costs but also due to increased sales. Through the implementation of a permanent price increase and temporary invoice surcharge commencing in the fourth quarter of 2008 and extending such price increase through the twelve months ended December 31, 2009 and the invoice surcharge through January 31, 2009, we were successful in insulating our gross profit from the effect of steel price increases on our 2008 purchases. Though we continued to mitigate the effect of elevated steel costs throughout 2009, our gross profit in that period declined relative to the corresponding period in 2008. This was mainly due to the decline in unit sales of snow and ice control equipment we experienced and the consequent decrease in net sales relative to fixed costs. Notwithstanding that decrease, we believe the measures we have taken to mitigate the effect of steel prices remained effective throughout 2009, and we intend to continue to implement similar measures to mitigate steel cost increases in the future.

Results of Operations

Overview

In assessing our results of operations in a given period, one of the primary factors we consider is the level of snowfall experienced within the prior snow season. We typically compare the snowfall level in a given period both to the snowfall level in the prior season and to those snowfall levels we consider to be average. References to "average snowfall" levels below refer to the aggregate average inches of snowfall recorded in 66 cities in 26 snowbelt states in the United States during the annual snow season,

from October 1 through March 31, from 1980 to 2009. During this period, snowfall averaged 2,983 inches, with the low in such period being 2,094 inches and the high being 4,502 inches.

Our results of operations for the year ended December 31, 2007 were negatively impacted by below average snowfall during the October 1, 2006 to March 31, 2007 snow season (approximately 11% below average). During the October 1, 2007 to March 31, 2008 and October 1, 2008 to March 31, 2009 snow seasons, we experienced above average snowfall (approximately 22% above average during the October 1, 2007 to March 31, 2008 snow season and 23% above average during the October 1, 2008 to March 31, 2009 snow season). Despite above average snowfalls during both of these periods, we believe that the economic downturn resulted in lower sales of snowplows and sand and salt spreaders, but increased sales of our parts and accessories as a percentage of total net sales during the year ended December 31, 2008 and year ended December 31, 2009 as compared to prior periods, because weakened economic conditions tend to cause our end-users to delay purchase of replacement snow and ice control equipment and instead repair their existing equipment.

Sales of parts and accessories for 2009 and 2008 were $26.9 million and $28.7 million, respectively, or approximately 58.3% and 85.8% higher than average annual parts and accessories sales over the preceding ten years (from 2000 to 2007, sales of parts and accessories ranged from approximately $9 million to $19 million per year, with an average of approximately $14 million). Management believes the increased sales of parts and accessories are largely a result of the deferral of new equipment purchases due to the severe economic downturn in 2008 and 2009, as many end-users chose to extend the life of their existing equipment beyond the typical replacement cycle. Although sales of snow and ice control units increased by 9.6% and 18.2% in 2009 and 2008, respectively, as compared to 2007, management believes that absent the recent economic downturn, equipment sales in 2009 and 2008 would have been considerably higher due to the high levels of snowfall during the year. Equipment unit sales in 2009 remained 13.9% below the immediately preceding ten-year average, despite the fact that snowfall levels were approximately 19% above the immediately preceding ten-year average (excluding units sold by Blizzard Corporation prior to its acquisition by us in November 2005). Equipment unit sales in 2008 remained 9% below the immediately preceding ten-year average, despite the fact that snowfall levels in 2008 were approximately 22% above the immediately preceding ten-year average (excluding units sold by Blizzard Corporation prior to its acquisition by us in November 2005). Management believes this deferral of new equipment purchases could result in an elevated multi-year replacement cycle as the economy recovers.

The following table shows our sales of snow and ice control equipment and related parts and accessories as a percentage of net sales for the periods indicated. During the years ended December 31, 2007, 2008 and 2009, we sold 40,538, 47,911 and 44,444 units of snow and ice control equipment, respectively.

	Year ended December 31,		
	2007	2008	2009
Equipment	87%	84%	85%
Parts and accessories	13%	16%	15%

The following table sets forth, for the periods presented, the consolidated statements of operations of Douglas Holdings and its subsidiaries. All intercompany balances and transactions have been eliminated in consolidation. In the table below and throughout this "Management's Discussion and Analysis of Financial Condition and Results of Operations," consolidated statements of operations data for the years ended December 31, 2007, 2008 and 2009 have been derived from our audited consolidated financial statements. The information contained in the table below should be read in

conjunction with our consolidated financial statements and the related notes included elsewhere in this prospectus.

	For the year ended December 31,		
	2007	2008	2009
		(in thousands)	
Net sales	$ 140,065	$ 180,108	$ 174,342
Cost of sales	97,249	117,911	117,264
Gross profit	42,816	62,197	57,078
Selling, general and administrative expense(1)	22,180	26,561	27,639
Income from operations	20,636	35,636	29,439
Interest expense, net	(19,622)	(17,299)	(15,520)
Loss on extinguishment of debt	(2,733)	—	—
Other income (expense), net	(87)	(73)	(90)
Income (loss) before taxes	(1,806)	18,264	13,829
Income tax expense (benefit)	(749)	6,793	3,986
Net income (loss)	$ (1,057)	$ 11,471	$ 9,843

(1) Includes management fees incurred with respect to related parties.

The following table sets forth, for the periods indicated, the percentage of certain items in our consolidated statement of operations data, relative to net sales:

	For the year ended December 31,		
	2007	2008	2009
Net sales	100.0%	100.0%	100.0%
Cost of sales	69.4	65.5	67.3
Gross profit	30.6	34.5	32.7
Selling, general and administrative expense	15.8	14.7	15.9
Income from operations	14.7	19.8	16.9
Net income (loss)	(0.8)%	6.4%	5.6%

Year Ended December 31, 2009 Compared to Year Ended December 31, 2008

Net Sales. Net sales were $174.3 million for the year ended December 31, 2009 compared to $180.1 million in 2008, a decrease of $5.8 million, or 3.2%. This decline was primarily driven by a $4 million decrease in sales of snow and ice control equipment. The decline in sales of snow and ice control equipment for the year ended December 31, 2009 was attributable to a decrease in sales volume of $24.4 million, or 13.5%, as compared to the prior year, offset by (1) price increases that we implemented beginning in the fourth quarter of 2008 and that extended throughout 2009 to cover steel cost inflation, which resulted in an $11.8 million increase to net sales as compared to the prior year and (2) the successful introduction of a new half-ton plow in June 2009, which together with other new product introductions in the last five years resulted in an $8.6 million increase to net sales as compared to the prior year. The 13.5% decrease in sales volume was largely a result of weak economic conditions that persisted throughout 2009 and which we believe led many end-users to repair their existing snow and ice control equipment instead of purchasing new equipment. Further, our net sales for the year ended December 31, 2008 were higher than in 2009 as a heavy snowfall in December 2007 caused our order flow to be unusually high toward the end of December 2007, resulting in a backlog at the start of 2008 and the shipment of an above-average number of units in the first quarter of 2008. Net sales of parts and accessories also declined in the year ended December 31, 2009 from the year ended

December 31, 2008 by 6.3% from $28.7 million to $26.9 million. Notwithstanding this decline, net sales of parts and accessories remained comparatively high in 2009, exceeding the preceding ten-year average by approximately 58.3%. As discussed above, the comparatively strong sales of parts and accessories was due in large part to the downturn in general economic conditions and local economic conditions in the snowbelt regions, which we believe led many of our end-users to repair their existing snow and ice control equipment instead of purchasing new equipment.

Cost of Sales. Cost of sales were $117.3 million for the year ended December 31, 2009 compared to $117.9 million in 2008, a decrease of $0.6 million, or 0.5%. This decrease was driven primarily by reduced costs caused by the decrease in unit sales of snow and ice control equipment, as discussed above. Costs of sales as a percentage of net sales, however, increased from 65.5% for the year ended December 31, 2008 to 67.3% for the year ended December 31, 2009 as a result of the decline in net sales for the year ended December 31, 2009, the increased cost of steel and the implementation of price increases to cover the increased cost of steel (because these price increases increased both our net sales and our cost of sales). As a percentage of cost of sales, fixed and variable costs were approximately 17% and 83% respectively for the year ended December 31, 2009 versus approximately 16% and 84% for the year ended December 31, 2008.

Gross Profit. Gross profit was $57.1 million for the year ended December 31, 2009 compared to $62.2 million in 2008, a decrease of $5.1 million, or 8.2%, due primarily to the decline in net sales described above under "—Net Sales." As a percentage of net sales, gross profit decreased from 34.5% for the year ended December 31, 2008 to 32.7% for the corresponding period in 2009, as a result of the factors discussed above under "—Net Sales" and "—Cost of Sales."

Selling, General and Administrative Expense. Selling, general and administrative expenses were $27.6 million for the year ended December 31, 2009 compared to $26.6 million for the year ended December 31, 2008, an increase of $1.1 million, or 4% driven by the restructuring charges of $1.1 million related to the Johnson City closure. As a percentage of net sales, selling, general and administrative expenses increased from 14.7% for the year ended December 31, 2008 to 15.9% for the corresponding period in 2009 due to the decline in net sales discussed above.

Interest Expense. Interest expense was $15.5 million for the year ended December 31, 2009 compared to $17.3 million in the corresponding period in 2008, a decrease of $1.8 million. This decrease was due to reduced interest expense of $2.3 million due to lower interest rates on our term loan partially offset by $0.5 million of reduced interest income due to lower interest rates on short term cash investments.

Net Income. Net income for the year ended December 31, 2009 was $9.8 million compared to net income of $11.5 million for the corresponding period in 2008, a decrease of $1.6 million, or 14.2%. This decrease was driven by the factors described above, and primarily by the lower level of unit sales of snow and ice control equipment for the year ended December 31, 2009 compared to the corresponding period in 2008. As a percentage of net sales, net income was 5.6% for the year ended December 31, 2009 compared to 6.4% for the year ended December 31, 2008.

Year Ended December 31, 2008 Compared to Year Ended December 31, 2007

Net Sales. Net sales were $180.1 million for the year ended December 31, 2008 compared to $140.1 million in the prior year, an increase of $40 million, or 28.6%. The primary driver of this increase was a 37.7% increase in snowfall levels in the 2007 to 2008 snow season versus the 2006 to 2007 snow season. This increase in snowfall resulted in a $21 million, or 15.0%, increase in snow and ice control equipment sales in 2008 compared to 2007, including $18 million of growth primarily attributable to the successful introduction of new products in the last five years, and record sales of parts and accessories of $28.7 million in 2008, an increase of $10.7 million compared to 2007, which we believe was driven by the downturn in general economic conditions and local economic conditions in

the snowbelt regions, which led many of our end-users to repair their existing snow and ice control equipment instead of purchasing new equipment. Additionally, year-over-year net sales benefited from price increases totaling $8.3 million, consisting of a 3.0% price increase from January to September 2008 totaling $3.8 million and an October to December average price increase of 10% consisting of a 7.0% permanent price increase for our products, along with a 3.0% price increase in the form of a steel surcharge due to higher steel prices which contributed $4.4 million to net sales.

Cost of Sales. Cost of sales were $117.9 million for the year ended December 31, 2008 compared to $97.2 million for the prior year, an increase of $20.7 million, or 21.3%. This increase was driven almost entirely by the increase in unit sales of snow and ice control equipment and parts and accessories, as discussed above. As a percentage of net sales, cost of sales decreased from 69.4% in 2007 to 65.5% in 2008. As a percentage of cost of sales, fixed and variable costs were approximately 16% and 84% respectively for the year ended December 31, 2008 versus approximately 19% and 81% for the year ended December 31, 2007.

Gross Profit. Gross profit was $62.2 million for the year ended December 31, 2008 compared to $42.8 million in the prior year, an increase of $19.4 million, or 45.3%. As a percentage of net sales, gross profit increased from 30.6% in 2007 to 34.5% in 2008, as a result of the factors discussed above under "—Net Sales" and "—Cost of Sales."

Selling, General and Administrative Expense. Selling, general and administrative expenses were $26.6 million for the year ended December 31, 2008, compared to $22.2 million for the prior year, an increase of $4.4 million, or 19.8%. Our increased sales in 2008 resulted in a $0.3 million increase in recruiting expense to fill open positions arising due to an increase in our labor headcount, an increase to our marketing expenditures, of $0.8 million attributable to advertising and promotions, an increase in the cost of our incentive plans of $1.8 million attributable to our annual incentive plan and $0.8 million attributable to our profit sharing plan. As a percentage of net sales, selling, general and administrative expenses decreased from 15.8% in the 2007 to 14.7% in 2008.

Interest Expense. Interest expense was $17.3 million for the year ended December 31, 2008 compared to $19.6 million for the year ended December 31, 2007, a decrease of $2.3 million. This decrease was mainly due to $1.2 million in lower interest on our term loan, $0.5 million lower interest on our revolving credit facility and a $0.5 million reduction in amortization of deferred financing costs.

Net Income. As a result of the factors discussed above, net income for the year ended December 31, 2008 was $11.5 million compared to a net loss of $1.1 million in the year ended December 31, 2007. As a percentage of net sales, net income was 6.4% for 2008 and (0.8)% for 2007.

Adjusted EBITDA

The following table sets forth our Adjusted EBITDA for the periods presented. For more information, please see the discussion of Adjusted EBITDA in the "Prospectus Summary."

	Year ended December 31, 2007	Year ended December 31, 2008	Year ended December 31, 2009
		(in thousands)	
Adjusted EBITDA	$ 32,745	$ 47,742	$ 45,180

Adjusted EBITDA for the year ended December 31, 2009 was $45.2 million compared to $47.7 million in the corresponding period in 2008, a decrease of $2.6 million, or 5.4%. As a percentage of net sales, Adjusted EBITDA decreased from 26.5% for the year ended December 31, 2008 to 25.9% for the year ended December 31, 2009. Adjusted EBITDA for the year ended December 31, 2008 was $47.7 million compared to Adjusted EBITDA of $32.7 million for the year ended December 31, 2007, an increase of $15 million, or 45.8%. As a percentage of net sales, Adjusted EBITDA increased from 23.4% in 2007 to 26.5% in 2008. In addition to the specific changes resulting from the exceptions, the changes to Adjusted EBITDA for the periods discussed resulted from factors discussed above under "—Results of Operations."

The following table presents a reconciliation of net income, the most comparable GAAP financial measure, to Adjusted EBITDA, for each of the periods indicated. For more information regarding our use of non-GAAP financial measures, please see the discussion of Adjusted EBITDA in "Prospectus Summary."

	For the year ended December 31,		
	2007	2008	2009
		(in thousands)	
Net income (loss)	$ (1,057)	$ 11,471	$ 9,843
Interest expense—net	19,622	17,299	15,520
Loss on extinguishment of debt	2,733	—	—
Income taxes	(749)	6,793	3,986
Depreciation expense	4,632	4,650	5,797
Amortization	6,164	6,160	6,161
EBITDA	31,345	46,373	$ 41,307
Management fees	1,400	1,369	1,393
Stock option repurchase	—	—	732(1)
Other non-recurring charges	—	—	1,748(2)
Adjusted EBITDA	$ 32,745	$ 47,742	$ 45,180

(1) Reflects the stock-based compensation expense associated with the repurchase of stock options from certain of our executives.

(2) Reflects severance expenses and one-time, non-recurring expenses for facility preparation and moving costs related to the closure of our Johnson City, Tennessee facility of $1,054 and certain unrelated legal expenses of $694.

Discussion of Critical Accounting Policies

Our consolidated financial statements are prepared in accordance with GAAP. The preparation of these consolidated financial statements requires us to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues, costs and expenses, and related disclosures. These estimates and assumptions are often based on judgments that we believe to be reasonable under the circumstances at the time made, but all such estimates and assumptions are inherently uncertain and unpredictable. Actual results may differ from those estimates and assumptions, and it is possible that other professionals, applying their own judgment to the same facts and circumstances, could develop and support alternative estimates and assumptions that would result in material changes to our operating results and financial condition. We evaluate our estimates and assumptions on an ongoing basis. Our estimates are based on historical experience and various other assumptions that we believe to be reasonable under the circumstances.

The most significant accounting estimates inherent in the preparation of our financial statements include estimates used in the determination of liabilities related to pension obligations, recovery of accounts receivable, impairment assessment of goodwill and other indefinite-lived intangible assets, as well as estimates used in the determination of the lower of cost or market value of inventory and liabilities related to taxation and product warranty.

We believe the following are the critical accounting policies that affect our financial condition and results of operations.

Defined Benefit Pension Obligation

As discussed in Note 12 to our audited consolidated financial statements included elsewhere in this prospectus, the pension benefit obligation and related pension expense or income of our pension plans

are calculated in accordance with Accounting Standards Codification ("ASC") 715-30, Defined Benefit Plans-Pension, and are impacted by certain actuarial assumptions, including the discount rate and the expected rate of return on plan assets. Rates are evaluated on an annual basis considering such factors as market interest rates and historical asset performance. Actuarial valuations for 2009 used a discount rate of 6.0% and an expected long-term rate of return on plan assets of 8.0%. Our discount rate reflects the expected future cash flow based upon our funding valuation assumptions and participant data at the beginning of the plan year. The expected future cash flow was discounted by the Citigroup Pension Liability Index yield curve for the month preceding the 2009 year end.

In estimating the expected return on plan assets, we analyze historical and expected returns for multiple asset classes. The overall rate for each asset class was developed by combining a long-term inflation component, the risk-free real rate of return, and the associated risk premium. A weighted average rate was then developed based upon those overall rates and the target asset allocation of the plan. Changes in the discount rate and return on assets can have a significant effect on the funded status of our pension plans, stockholders' equity and related expense. We cannot predict these changes in discount rates or investment returns and, therefore, cannot reasonably estimate whether the impact in subsequent years will be significant. The funded status of our pension plans is the difference between the projected benefit obligation and the fair value of its plan assets. The projected benefit obligation is the actuarial present value of all benefits expected to be earned by our employees service adjusted for future wage increases. At December 31, 2009, our pension obligation funded status was $9 million underfunded.

Our funding policy for our pension plans is to contribute amounts at least equal to the minimum annual amount required by applicable regulations. We contributed approximately $1.4 million to our pension plans in 2009. See Note 12 to our audited consolidated financial statements included elsewhere in this prospectus for a more detailed description of our pension plans.

Revenue Recognition and Allowance for Doubtful Accounts

We recognize revenues upon shipment to the customer, which is when title passes and all of the following conditions are satisfied: (1) persuasive evidence of an arrangement exists; (2) the price is fixed or determinable; (3) collectability is reasonably assured; and (4) the product has been shipped and we have no further obligations. Customers have no right of return privileges. Historically, product returns have not been material and are permitted on an exception basis only.

We offer a variety of discounts and sales incentives to our distributors. The estimated liability for sales discounts and allowances is recorded at the time of sale as a reduction of net sales. The liability is estimated based on the costs of the program, the planned duration of the program and historical experience.

We carry our accounts receivable at their face amount less an allowance for doubtful accounts. On a periodic basis, we evaluate our accounts receivable and establishes an allowance for doubtful accounts based on a combination of specific distributor circumstances and credit conditions taking into account the history of write-offs and collections. A receivable is considered past due if payment has not been received within the period agreed upon in the invoice. Accounts receivable are written off after all collection efforts have been exhausted. We take a security interest in the inventory as collateral for the receivable but often do not have a priority security interest. See Note 2 to our audited consolidated financial statements included elsewhere in this prospectus for further information regarding our allowance for doubtful accounts.

Impairment of Long-Lived Assets

Long-lived assets are reviewed for potential impairment when events or changes in circumstances indicate that the carrying amount of the asset may not be recoverable. Recoverability of assets to be

held and used is measured by comparison of the carrying value of such assets to the undiscounted future cash flows expected to be generated by the assets. If the carrying value of an asset exceeds its estimated undiscounted future cash flows, an impairment provision is recognized to the extent that the carrying amount of the asset exceeds its fair value. Assets to be disposed of are reported at the lower of the carrying amount or the fair value of the asset, less costs of disposition. Our management considers such factors as current results, trends and future prospects, current market value, and other economic and regulatory factors in performing these analyses. We determined that no long-lived assets were impaired as of December 31, 2009, 2008 and 2007.

Goodwill and Other Intangible Assets

We perform an annual impairment test for goodwill and trade names and more frequently if an event or circumstances indicate that an impairment loss has been incurred. Conditions that would trigger an impairment assessment include, but are not limited to, a significant adverse change in legal factors or business climate that could affect the value of an asset. The analysis of potential impairment of goodwill requires a two-step process. The first step is the estimation of fair value of the applicable reporting unit. We have determined we have one reporting unit, and all significant decisions are made on a companywide basis by our chief operating decision maker. The fair value of the reporting unit is estimated by applying valuation multiples and estimating future discounted cash flows. The selection of multiples is dependent upon assumptions regarding future levels of operating performance as well as business trends, prospects and market conditions. When preparing a discounted cash flow analysis, we make a number of key estimates and assumptions. We estimate the future cash flows of the business based on historical and forecasted revenues and operating costs. This, in turn, involves further estimates, such as estimates of future growth rates and inflation rates. In addition, we apply a discount rate to the estimated future cash flows for the purpose of the valuation. This discount rate is based on the estimated weighted average cost of capital for the business and may change from year to year. Weighted average cost of capital includes certain assumptions such as market capital structures, market betas, risk-free rate of return and estimated costs of borrowing. Changes in these key estimates and assumptions, or in other assumptions used in this process, could materially affect our impairment analysis for a given year. Additionally, since our measurement also considers a market approach, changes in comparable public company multiples can also materially impact our impairment analysis. The estimated fair value is compared with our aggregate carrying value. If our fair value is greater than the carrying amount, there is no impairment. If our carrying amount is greater than the fair value, then the second step must be completed to measure the amount of impairment, if any.

The second step calculates the implied fair value of the goodwill, which is compared to its carrying value. The implied fair value of goodwill is calculated by valuing all of the tangible and intangible assets of the reporting unit at the hypothetical fair value, assuming the reporting unit had been acquired in a business combination. The excess of the fair value of the entire reporting unit over the fair value of its identifiable assets and liabilities is the implied fair value of goodwill. If the implied fair value of goodwill is less than the carrying value of goodwill, an impairment loss is recognized equal to the difference. Annual impairment tests conducted by us on December 31, 2009, 2008 and 2007 resulted in no adjustment to the carrying value of our indefinite-lived intangibles.

Our goodwill and trade name balances could be impaired in future periods. A number of factors, many of which we have no ability to control, could affect our financial condition, operating results and business prospects and could cause actual results to differ from the estimates and assumptions we employed. These factors include:

- a prolonged global economic crisis;
- a significant decrease in the demand for our products;
- the inability to develop new and enhanced products and services in a timely manner;

- a significant adverse change in legal factors or in the business climate;
- an adverse action or assessment by a regulator; and
- successful efforts by our competitors to gain market share in our markets.

Our cash flow assumptions are based on historical and forecasted revenue, operating costs and other relevant factors. If management's estimates of future operating results change or if there are changes to other assumptions, the estimate of the fair value of our business may change significantly. Such change could result in impairment charges in future periods, which could have a significant impact on our operating results and financial condition.

Inventory Valuation

Inventories are stated at the lower of cost or market. Market is determined on the basis of estimated realizable values. Cost is determined using the first-in, first-out basis. We periodically review our inventory for slow-moving, damaged and discontinued items and provide reserves to reduce such items identified to their recoverable amounts.

Income Taxes

Our estimate of income taxes payable, deferred income taxes and the effective tax rate is based on an analysis of many factors including interpretations of federal and state income tax laws, the difference between tax and financial reporting bases and liabilities, estimates of amounts currently due or owed in various jurisdictions, and current accounting standards. We review and update our estimates on a quarterly basis as facts and circumstances change and actual results are known.

We have generated significant deferred tax assets as a result of goodwill and intangible asset book versus tax differences as well as net operating loss carryforwards. In assessing the ability to realize these deferred tax assets, we consider whether it is more likely than not that some portion or all of the deferred tax assets will not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the years in which those temporary differences become deductable. We consider the scheduled reversal of deferred tax liabilities, projected future taxable income and tax planning strategies in making this assessment. As a result of this analysis, we have recorded a valuation allowance against certain of these deferred tax assets.

On January 1, 2007, we adopted accounting guidance originally issued under Financial Interpretation No. 48, A*ccounting for Uncertainty in Income Taxes* (codified in ASC 740 *Income Taxes*). This interpretation prescribes the minimum recognition threshold that a tax position is required to meet before being recognized in the financial statements. This pronouncement also provides guidance on the measurement, classification and recognition of tax positions. As a result of the adoption of this pronouncement, accruals for tax contingencies, if any, are provided for in accordance with the requirements of ASC 740. See Note 10 to our audited consolidated financial statements included elsewhere in this prospectus for further information regarding our accounting for income taxes.

Warranty Cost Recognition

We accrue for estimated warranty costs as sales are recognized and periodically assess the adequacy of the recorded warranty liability and adjust the amount as necessary. Our warranties generally provide, with respect to our snow and ice control equipment, that all material and workmanship will be free from defect for a period of two years after the date of purchase by the end-user, and with respect to our parts and accessories purchased separately, that such parts and accessories will be free from defect for a period of one year after the date of purchase by the end-user. Certain snowplows only provide for a one year warranty. We determine the amount of the estimated warranty costs (and our corresponding warranty reserve) based on our prior five years of warranty

history utilizing a formula driven by historical warranty expense and applying management's judgment. We adjust our historical warranty costs to take into account unique factors such as the introduction of new products into the marketplace that do not provide a historical warranty record to assess.

New Accounting Pronouncements

Effective July 1, 2009, the Company adopted FASB Topic ASC 105-10,*Generally Accepted Accounting Principles—Overall* ("ASC 105-10"). ASC 105-10 establishes the FASB ASC as the source of authoritative accounting principles recognized by the FASB to be applied in the preparation of financial statements in conformity with GAAP. We have updated GAAP referencing for this prospectus. The FASB Codification has been reflected in the financial reporting of the Company.

On December 30, 2008, the FASB originally issued FSP No. FAS 132(R)-1*Employer's Disclosures about Postretirement Benefit Assets* (codified in ASC Topic 715-20, *Defined Benefit Plans* ("ASC-715-20")) related to employers' disclosures regarding postretirement benefit plan assets. This statement provides additional guidance on employers' disclosures about plan assets of a defined benefit pension or other postretirement plan. ASC 715-20 is effective for periods ending after December 15, 2009, on a prospective basis. The adoption of this standard did not have a material impact on our financial position, results of operations or cash flows.

Effective July 1, 2009, we adopted FASB ASC Topic 855-10,*Subsequent Events—Overall* ("ASC 855-10"). ASC 855-10 establishes standards for the accounting for and the disclosing of subsequent events. ASC 855-10 introduces new terminology, defines a date for certain companies through which management must evaluate subsequent events, and lists the circumstances under which an entity must recognize and disclose events or transactions occurring after the balance sheet date.

In December 2007, the FASB originally issued SFAS No. 141R,*Business Combinations* (codified in ASC Topic 805 ("ASC 805")), which establishes principles and requirements for how the acquirer of a business recognizes and measures in its financial statements the identifiable assets acquired, liabilities assumed, and any non-controlling interest in the acquiree. ASC 805 provides guidance for recognizing and measuring the goodwill acquired in the business combination and determines what information to disclose to enable users of the financial statements to evaluate the nature and financial effects of the business combination. ASC 805 is effective for fiscal years beginning after December 15, 2008. Early adoption is not permitted. ASC 805 is to be applied prospectively to business combinations for which the acquisition date is on or after the first reporting period beginning on or after December 15, 2008. The adoption of this standard did not have a material impact on our financial position, results of operations or cash flows; however this standard will impact accounting for any future acquisition transactions.

In April 2008, the FASB originally issued FSP No. FASB 142-3,*Determination of the Useful Life of Intangible Assets* (FSP No. FAS No. 142-3) (codified in *FASB ASC Topic 350—Intangible—Goodwill and Other).* FSP No. FASB 142-3 prospectively amends the factors that should be considered in developing renewal or extension assumptions used to determine the useful life of a recognized intangible asset. The intent of the position is to improve the consistency between the useful life of a recognized intangible asset under FSP No. FASB 142-3 and the period of expected cash flows used to measure the fair value of the asset under FSP No. FASB 142-3. We adopted this pronouncement on January 1, 2009. The adoption of this pronouncement did not have a material impact to the Company's consolidated financial statements.

Liquidity and Capital Resources

Our principal sources of cash have been and we expect will continue to be cash from operations and borrowings under our senior credit facilities.

Following this offering, we anticipate that our primary uses of cash will be to provide working capital, meet debt service requirements, finance capital expenditures, pay dividends under our dividend policy and support our growth, including through potential acquisitions, and for other general corporate purposes. For a description of the seasonality of our working capital rates see "—Seasonality and Year-To-Year Variability." As discussed under "Use of Proceeds," we will use the proceeds from this offering together with an increase in our term loan facility to redeem our senior notes, including the accrued and unpaid interest thereon and the associated redemption premium 30 days following the consummation of this offering for a total of approximately $157.3 million.

Our Board of Directors will adopt a dividend policy, effective upon the consummation of this offering, that reflects an intention to distribute to our stockholders a regular quarterly cash dividend. The declaration and payment of these dividends to holders of our common stock will be at the discretion of our Board of Directors and will depend upon many factors, including our financial condition and earnings, legal requirements, taxes and other factors our Board of Directors may deem to be relevant. The terms of our indebtedness may also restrict us from paying cash dividends on our common stock under certain circumstances. As a result of this dividend policy, we may not have significant cash available to meet any large unanticipated liquidity requirements. As a result, we may not retain a sufficient amount of cash to fund our operations or to finance unanticipated capital expenditures or growth opportunities, including acquisitions. Our Board of Directors may, however, amend, revoke or suspend our dividend policy at any time and for any reason. See "Dividend Policy and Restrictions."

As of December 31, 2009, we had $129.1 million of total liquidity, comprised of $69.1 million in cash and cash equivalents and the ability to borrow $60 million under our revolving credit facility. We expect that cash on hand, generated from operations, as well as available credit under our senior credit facilities will provide adequate funds for the purposes described above for at least the next 12 months.

Cash Flow Analysis

Set forth below is summary cash flow information for each of the years ended December 31, 2007, 2008 and 2009.

	Year Ended December 31,		
	2007	2008	2009
		(in thousands)	
Net cash flow provided by operating activities	$ 20,040	$ 23,411	$ 25,571
Net cash flow used in investing activities	(1,045)	(3,113)	(8,200)
Net cash flow provided by (used in) financing activities	4,083	(2,265)	(1,850)
Increase in cash	$ 23,078	$ 18,033	$ 15,521

Sources and Uses of Cash

During the three-year periods described above, net cash provided by operating activities was used for funding capital investment, building inventories, retiring preferred stock and paying related dividends, paying interest on both our senior notes and senior credit facilities, and funding working capital requirements during our pre-season shipping period.

Management believes that normal year-end inventories generally range from $25 million to $30 million. In the year ended December 31, 2007, however, our inventory balance was reduced to $17.1 million. That reduction resulted from our decision to reduce inventory levels due to below average snowfall and earnings.

The following table shows our cash and cash equivalents and inventories at December 31, 2007, 2008 and 2009.

	December 31,		
	2007	2008	2009
		(in thousands)	
Cash and cash equivalents	$ 35,519	$ 53,552	$ 69,073
Inventory	17,086	28,802	26,697

Year Ended December 31, 2009 Compared to Year Ended December 31, 2008

We had cash and cash equivalents of $69.1 million at December 31, 2009 compared to cash and cash equivalents of $53.6 million at December 31, 2008. The table below sets forth a summary of the significant sources and uses of cash for the periods presented.

	Year ended December 31,			
Cash Flows (in thousands)	2008	2009	Change	% Change
Net cash provided by operating activities	$ 23,411	$ 25,571	$ 2,160	9.2%
Net cash used in investing activities	(3,113)	(8,200)	(5,087)	163.4
Net cash used in financing activities	(2,265)	(1,850)	415	18.3
Increase in cash	$ 18,033	$ 15,521	$ (2,512)	(13.9)%

Net cash provided by operating activities increased $2.2 million from the year ended December 31, 2008 to the year ended December 31, 2009. The increase in cash provided by operating activities was due to an aggregate $13.8 million change in inventory (from an $11.7 million increase in inventory for the year ended December 31, 2008 to support increased sales volume to a $2.1 million inventory reduction for the year ended December 31, 2009). This positive impact was partially offset by increased accounts receivable growth, reduced net income, a lower income tax receivable, and a reduction in accruals with respect to the Company's Annual Incentive Plan and non-executive employee profit sharing plan.

Net cash used in investing activities increased $5.1 million for the year ended December 31, 2009, compared to the corresponding period in 2008, mainly as a result of increases in capital investments of approximately $5 million in our manufacturing plants in Milwaukee, WI and Rockland, ME to support the closure of our Johnson City, TN manufacturing plant planned for mid-2010.

Net cash used in financing activities decreased $0.4 million for the year ended December 31, 2009 compared to the corresponding period in 2008, primarily as a result of a payment of deferred financing costs of $0.3 million for the year ended December 31, 2008 which did not occur in the corresponding period in 2009.

Year Ended December 31, 2008 Compared to Year Ended December 31, 2007

We had cash and cash equivalents of $53.6 million at December 31, 2008 compared to cash and cash equivalents of $35.5 million at December 31, 2007. The table below sets forth a summary of the significant sources and uses of cash for the periods presented.

	Year ended December 31,			
	2007	2008	Change	% Change
	(dollars in thousands)			
Net cash provided by operating activities	$ 20,040	$ 23,411	$ 3,371	16.8%
Net cash used in investing activities	(1,045)	(3,113)	(2,068)	(197.9)
Net cash provided by (used in) financing activities	4,083	(2,265)	(6,348)	(155.5)
Increase (decrease) in cash	$ 23,078	$ 18,033	$ (5,045)	(21.9)%

Net cash provided by operating activities increased $3.4 million from 2007 to 2008. The increase in cash provided by operating activities was due to higher net income of $12.5 million, a decrease in accounts receivable growth of $6.1 million due to the fact that accounts receivable balances at December 31, 2007 were particularly high as a result of the significant sales in December 2007, a reduction of $5.2 million in income tax receivable from December 31, 2007 to December 31, 2008, and a $1.9 million increase in accrued incentive plan expenses from December 31, 2007 to December 31, 2008. The increase was offset by a $21.9 million net increase in inventory build up from December 31, 2007 to December 31, 2008.

Net cash used in investing activities decreased $2.1 million in 2008 compared to 2007, as capital expenditures returned to historical levels in 2008 following a substantial reduction in 2007 spending to maximize cash flow in a year with lower sales.

Net cash provided by financing activities decreased $6.3 million in 2008 compared to 2007, due mainly to a non-recurring recapitalization of our debt structure in May 2007, which provided an additional $4.1 million of cash in 2007.

Future Obligations and Commitments

Contractual Obligations

We are subject to certain contractual obligations, including long-term debt and related interest. We have unrecognized tax benefits of $1.2 million as of December 31, 2009. However, we cannot make a reasonably reliable estimate of the period of potential cash settlement of the underlying liabilities, therefore, we have not included unrecognized tax benefits in calculating the obligations set forth in the following table of significant contractual obligations as of December 31, 2009.

(Dollars in thousands)	Total	2010	2011	2012	After 2012
Long-term debt					
Term loan	$ 82,663	$ 850	$ 81,813	$ —	$ —
Senior notes(1)	150,000	—	—	150,000	—
Interest on long-term debt(2)	26,912	13,706	12,728	478	—
Total contracted cash obligations(3)	$ 259,575	$ 14,556	$ 94,541	$ 150,478	$ —

(1) We will use the proceeds from this offering together with an increase in our term loan facility to redeem our senior notes 30 days following the consummation of this offering.

(2) Assumes all debt will remain outstanding until maturity. Interest payments were calculated using interest rates in effect as of December 31, 2009.

(3) Pension obligations are excluded from this table as we are unable to estimate the timing of payments related to these obligations. The minimum required contribution to our pension plans was $1.4 million in 2009 and is expected to be $0.9 million in 2010.

Senior Credit Facilities

Our debt structure includes a first lien credit facility that consists of a $60 million asset based revolving credit facility and an $85 million term loan. As of December 31, 2009, we had $82.7 million of borrowings under our term loan and no borrowings under our revolving credit facility. In connection with this offering we intend to increase our term loan facility by $40 million.

After we redeem our senior notes, and unless terminated earlier, our term loan facility will mature in May 2013 with respect to the existing term loans and May 2016 with respect to the additional term loans, any existing term loans thereunder bear interest through maturity, at our option, at a base rate (which will be no less than 3%) plus 3.5% or a eurodollar rate (which will be no less than 2%) plus 4.5% and any additional term loans incurred in connection with this offering will bear interest through maturity, at our option, at a base rate (which will be no less than 3%) plus 4% or a eurodollar rate (which will be no less than 2%) plus 5%.

After we redeem our senior notes, and unless terminated earlier, our revolving credit facility will mature in May 2012 and borrowings thereunder bear interest, at our option, at a base rate or a eurodollar rate plus an applicable margin. The applicable margin for base rate loans is either 0.25% or 0.50% and the applicable margin for eurodollar rate loans is either 1.25% or 1.50%, in each case determined based on our leverage ratio from time to time. Our borrowing capacity under our revolving credit facility is, subject to certain reserves and limitations, limited to a borrowing base of 100% of cash on hand, 85% of eligible accounts receivable and the lesser of 70% of the cost of eligible inventory or 85% of the liquidation value of eligible inventory. Also, our revolving credit facility requires us to maintain at least $6 million of borrowing availability measured as (i) the lesser of aggregate lender commitments and the facility's borrowing base over (ii) outstanding loans and letters of credit. At December 31, 2009, we had no outstanding debt under our revolving credit agreement and, subject to certain availability requirements, had availability of $60 million.

Both our senior credit facilities include certain negative and operating covenants, including restrictions on our ability to pay dividends, and other customary covenants, representations and warranties and events of default. In addition, our revolving credit facility includes a requirement that, subject to certain exceptions, capital expenditures not exceed $10 million in any calendar year, and during the occurrence of a liquidity event, we must comply with a monthly minimum fixed charge coverage ratio test of 1.0 to 1.0. Compliance with the fixed charge coverage ratio test is subject to certain cure rights under our revolving credit facility. For a more complete description of our senior credit facilities, including the covenants described above, see "Description of Indebtedness—Senior Credit Facilities" and for a description of certain risks related to our senior credit facilities see "Risk Factors—Risks Related to Our Business and Industry." As of December 31, 2009, we were in compliance with the covenants under our senior credit facilities.

Our ability to make payments on and to refinance our indebtedness and to fund planned capital expenditures and working capital requirements will depend upon our ability to generate cash in the future. This is subject to the level, timing and location of snowfall, general economic, financial, industry and other conditions and factors that are beyond our control, as well as the factors described in the "Risk Factors."

7 3/4% Senior Notes Due 2012

We currently have $150 million in aggregate principal amount of our senior notes outstanding, which bear interest at a rate of 7 3/4% per annum and mature on January 15, 2012. We will use the proceeds from this offering together with our increased term loan facility to redeem our senior notes. Promptly following the consummation of this offering, we intend to deliver a notice of redemption in accordance with the terms of the indenture governing our senior notes and deposit with the trustee of our senior notes a total of approximately $157.3 million, comprised of the principal amount, together with the accrued and unpaid interest thereon and the associated redemption premium. Upon

redemption of the senior notes, the indenture governing our senior notes will cease to be of any further force or effect. We anticipate that our senior notes will be redeemed 30 days following the consummation of this offering. We also intend to amend our existing credit facilities concurrent with the consummation of this offering to permit this redemption of our senior notes.

The redemption of our senior notes with the proceeds of this offering and our increased term loan facility will result in a net reduction of long term debt of approximately $110 million. Further, we estimate that our interest expense will be reduced by approximately $11.6 million per year, which amount will be offset in part by approximately $6 million per year of additional interest, subject to fluctuation of the underlying base rate or eurodollar rate, as applicable, due to the increased interest rate on our existing term loan facility, the $40 million increase in our term loan facility in connection with the redemption of our senior notes and amortization of deferred financing fees.

Deductibility of Intangible and Goodwill Expense

We possess a favorable tax structure with approximately $18 million of annual tax-deductible intangible and goodwill expense over the next ten years which may be utilized in the event we have sufficient taxable income to utilize such benefit.

Impact of Inflation

We do not believe that inflation risk is material to our business or our financial condition, results of operations or cash flows at this time. Historically, we have experienced normal raw material, labor and fringe benefit inflation. To date we have been able to fully offset this inflation by providing higher value products, which command higher prices. In both 2004 and 2008, we experienced a significant increase in steel costs but have been able to mitigate the effects of these increases through both temporary and permanent steel surcharges, where appropriate. See "Risk Factors—The price of steel, a commodity necessary to manufacture our products, is highly variable. If the price of steel increases, our gross margins could decline."

Off-Balance Sheet Arrangements

We are not party to any off-balance sheet arrangements that have or are reasonably likely to have a material current or future effect on our financial condition, changes in financial condition, revenues, expenses, results of operations, liquidity, capital expenditures or capital resources.

Seasonality and Year-To-Year Variability

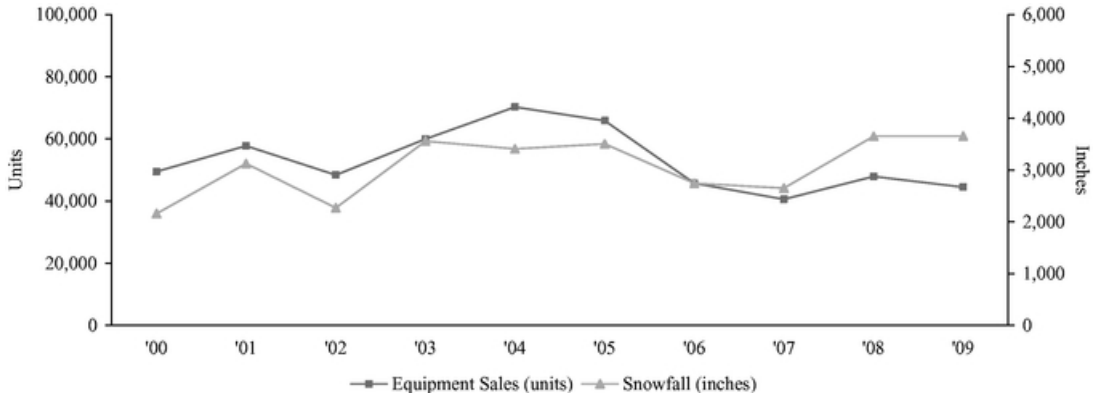
Our business is seasonal and also varies from year-to-year. Consequently, our results of operations and financial condition vary from quarter-to-quarter and from year-to-year as well. In addition, because of this seasonality and variability, our results of operations for any quarter may not be indicative of results of operations that may be achieved for a subsequent quarter or the full year, and may not be similar to results of operations experienced in prior years.

Sales of our products are significantly impacted by the level, timing and location of snowfall, with sales in any given year and region most heavily influenced by snowfall levels in the prior snow season (which we consider to begin in October and end in March) in that region. This is due to the fact that end-user demand for our products is driven primarily by the condition of their snow and ice control equipment, and in the case of professional snowplowers, by their financial ability to purchase new or replacement snow and ice control equipment, both of which are significantly affected by snowfall levels. Heavy snowfall during a given winter causes usage of our products to increase, resulting in greater wear and tear to our products and a shortening of their life cycles, thereby creating a need for replacement snow and ice control equipment and related parts and accessories. In addition, when there is a heavy snowfall in a given winter, the increased income our professional snowplowers generate from their professional snowplow activities provides them with increased purchasing power to purchase

replacement snow and ice control equipment prior to the following winter. To a lesser extent, sales of our products are influenced by the timing of snowfall in a given winter. Because an early snowfall can be viewed as a sign of a heavy upcoming snow season, our end-users may respond to an early snowfall by purchasing replacement snow and ice control equipment during the current season rather that delaying purchases until after the season is over when most purchases are typically made by end-users.

The following chart illustrates the effects of snowfall levels in the snowbelt states in a given winter on the number of units of snow and ice control equipment we shipped in the following year. Snowfall levels represent the aggregate number of inches of snowfall recorded in each of 66 cities in 26 snowbelt states across the Northeast, East, Midwest and Western United States where we have historically monitored snowfall levels. We have historically monitored snowfall levels in these cities because they represent the key metropolitan areas in the states where snowfall is a regular occurrence and coincide with our historical U.S. market. With respect to the calculation of units shipped, each year in the following chart represents the calendar year period from January 1 to December 31. With respect to the calculation of snowfall, each year in the following chart represents the period beginning on October 1 of the prior year and extending through the following March 31. Thus, for example, the number of units shipped in 2001 represents the total units of snow and ice control equipment we shipped from January 1, 2001 to December 31, 2001, whereas the 2001 snowfall level reflects snowfall in the snowbelt states in the period from October 1, 2000 through March 31, 2001. As the chart indicates, heavy snowfall levels in a given winter tend to lead to increased unit shipments of our snow and ice control equipment in the following year, whereas low snowfall levels in a given winter tend to lead to decreased units shipped of our snow and ice control equipment in the following year. Over the past 10 years, our sales of snow and ice control equipment ranged from a low of 40,538 units to a high of 70,314 units, averaging 53,035 units per year (including units sold by Blizzard Corporation prior to its acquisition by us in November 2005).

Equipment Sales Versus Snowfall

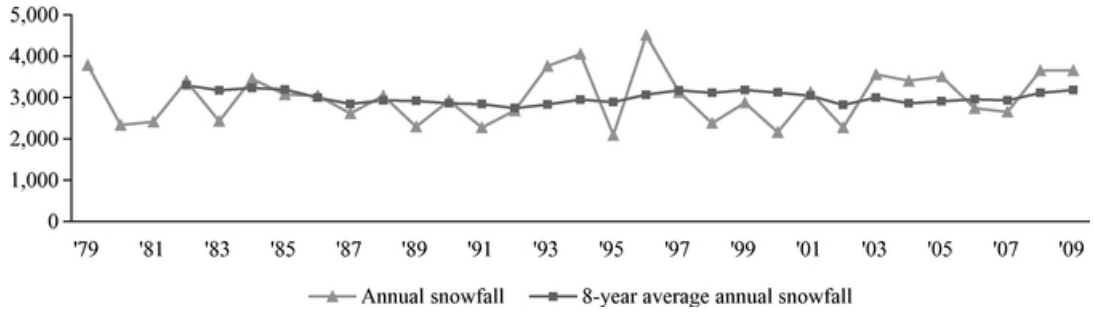


Note: This chart is not weighted or adjusted to account for new distributors or increased market size, but does include unit sales attributable to new distributors. Further, snowfall data in this chart is not adjusted for snowfall outside of the 66 cities in the 26 states reflected. Units of equipment sales for years 2002 through 2005 are adjusted to include units sold by Blizzard Corporation prior to its acquisition by us in November 2005. Data for Blizzard Corporation prior to 2002 is not available.

Source of snowfall data: National Oceanic and Atmospheric Administration's National Weather Service

The following chart depicts aggregate annual and eight-year (based on the typical life of our snowplows) rolling average of the aggregate snowfall levels in 66 cities in 26 snowbelt states across the Northeast, East, Midwest and Western United States where we monitor snowfall levels) from 1980 to 2009. As the chart indicates, since 1982 aggregate snowfall levels in any given rolling eight-year period have been fairly consistent, ranging from 2,742 to 3,295 inches.

Snowfall in Snowbelt States (inches)
(for October 1 through March 31)



Note: The 8-year rolling average snowfall is not presented prior to 1982 for purposes of the calculation due to lack of snowfall data prior to 1975. Snowfall data in this chart is not adjusted for snowfall outside of the 66 cities in the 26 states reflected.

Source: National Oceanic and Atmospheric Administration's National Weather Service.

We attempt to manage the seasonal impact of snowfall on our revenues in part through our pre-season sales program, which involves actively soliciting and encouraging pre-season distributor orders in the second and third quarters by offering our distributors a combination of pricing, payment and freight incentives during this period. These pre-season sales incentives encourage our distributors to re-stock their inventory during the second and third quarters in anticipation of the peak fourth quarter retail sales period by offering favorable pre-season pricing and payment deferral until the fourth quarter. As a result, we tend to generate our greatest volume of sales (an average of over two-thirds over the last ten years) during the second and third quarters, providing us with manufacturing visibility for the remainder of the year. By contrast, our revenue and operating results tend to be lowest during the first quarter as management believes our end-users prefer to wait until the beginning of a snow season to purchase new equipment and as our distributors sell off inventory and wait for our pre-season sales incentive period to re-stock inventory. Fourth quarter sales vary from year-to-year as they are primarily driven by the level, timing and location of snowfall during the quarter. This is because most of our fourth quarter sales and shipments consist of re-orders by distributors seeking to restock inventory to meet immediate customer needs caused by snowfall during the winter months.

While our monthly working capital has averaged approximately $54 million from 2007 to 2009, because of the seasonality of our sales, we experience seasonality in our working capital needs as well. In the first quarter we require capital as we are generally required to build our inventory in anticipation of our second and third quarter sales seasons. During the second and third quarters, our working capital requirements rise as our accounts receivables increase as a result of the sale and shipment of products ordered through our pre-season sales program and we continue to build inventory. Working capital requirements peak towards the end of the third quarter (reaching an average peak of $83 million over the prior three years) and then begin to decline through the fourth quarter through a reduction in accounts receivables (as it is in the fourth quarter that we receive a majority of the payments for previously shipped products).

We also attempt to manage the impact of seasonality and year-to-year variability on our business costs through the effective management of our assets. See "Business—Our Business Strategy—Aggressive Asset Management and Profit Focus." Our asset management and profit focus strategies include:

- the employment of a highly variable cost structure facilitated by a core group of workers that we supplement with a temporary workforce as sales volumes dictate, which allows us to adjust costs on an as-needed basis in response to changing demand;

- our enterprise-wide lean concept, which allows us to adjust production levels up or down to meet demand;
- the pre-season order program described above, which incentivizes distributors to place orders prior to the retail selling season; and
- a vertically integrated business model.

These asset management and profit focus strategies, among other management tools, allow us to adjust fixed overhead and sales, general and administrative expenditures to account for the year-to-year variability of our sales volumes. Management currently estimates that annual fixed overhead expenses generally range from approximately $14 million in low sales volume years to approximately $16 million in high sales volume years. Further, management currently estimates that annual sales, general and administrative expenses other than amortization generally approximate $20 million, but can be reduced to approximately $17 million to maximize cash flow in low sales volume years, and can increase to approximately $24 million to maintain customer service and responsiveness in high sales volume years.

Additionally, although modest, our annual capital expenditure requirements, which are normally budgeted at $3.5 million, can be temporarily reduced by up to approximately 40% in response to actual or anticipated decreases in sales volumes. If we are unsuccessful in our asset management initiatives, the seasonality and year-to-year variability effects on our business may be compounded and in turn our results of operations and financial condition may suffer.

Quantitative and Qualitative Disclosures About Market Risk

We do not use financial instruments for speculative trading purposes, and do not hold any derivative financial instruments that could expose us to significant market risk. Our primary market risk exposures are changes in interest rates and steel price fluctuations.

Interest Rate Risk

We are exposed to market risk primarily from changes in interest rates. Certain of our borrowings, including our term loan and any revolving borrowings under our senior credit facilities, are at variable rates of interest and expose us to interest rate risk. In addition, the interest rate on any revolving borrowings is subject to an increase in the interest rate based on our average daily availability under our revolving credit facility. When the average daily excess availability on our revolving credit facility falls below $25 million, our interest rate on the revolving credit facility will increase by 0.25%. The maximum impact this would have on our interest expense would be $150,000 per year. If interest rates increase, our debt service obligations on our variable rate indebtedness would increase even though the amount borrowed remained the same, and our net income and cash flows would correspondingly decrease.

As of December 31, 2009, we had outstanding borrowings under our term loan of $82.7 million. A hypothetical interest rate change of 1%, 1.5% and 2% on our term loan would have changed interest incurred for 2009 by $0.83 million, $1.24 million and $1.65 million, respectively. We had no outstanding borrowings under our revolving credit facility as of December 31, 2009.

Commodity Price Risk

In the normal course of business, we are exposed to market risk related to our purchase of steel, the primary commodity upon which our manufacturing depends. Our steel purchases as a percentage of revenue were 12%, 15% and 18% for the years ended December 31, 2007, 2008 and 2009, respectively. While steel is typically available from numerous suppliers, the price of steel is a commodity subject to fluctuations that apply across broad spectrums of the steel market. We do not use any derivative or hedging instruments to manage the price risk. If the price of steel increases, our variable costs could also increase. While historically we have successfully mitigated these increased costs through the implementation of either permanent price increases and/or temporary invoice surcharges, in the future we may not be able to successfully mitigate these costs, which could cause our gross margins to decline. If our costs for steel were to increase by $1.00 in a period where we are not able to pass any of this increase onto our distributors, our gross margins would decline by $1.00 in that period.

BUSINESS

General

We are the North American leader in the design, manufacture and sale of snow and ice control equipment for light trucks, which consists of snowplows and sand and salt spreaders, and related parts and accessories. We sell our products under the WESTERN®, FISHER® and BLIZZARD® brands which are among the most established and recognized in the industry. We believe that in 2009 our share of the light truck snow and ice control equipment market was greater than 50%. We offer the broadest and most complete product line of snowplows and sand and salt spreaders for light trucks in the U.S. and Canadian markets with over 60 models of snowplows and over 40 models of sand and salt spreaders across our three brands. Our snowplows use custom-designed mounts which allow each of our snowplow models to be used on a variety of light truck brands and models. In addition, we manufacture a broad portfolio of hopper and tailgate-mounted sand and salt spreaders that are used for snow and ice control on driveways, roads and parking lots. We also provide a full range of related parts and accessories, which generates an ancillary revenue stream throughout the lifecycle of our snow and ice control equipment.

We sell our products through a distributor network primarily to professional snowplowers, who are contracted to remove snow and ice from commercial, municipal and residential areas. Because of the short snow season (which we consider to run from October 1 through March 31), unpredictability of snowfall events and the difficult weather conditions under which our end-users operate, our end-users have a fairly limited time frame in which to generate income. Accordingly, our end-users demand a high degree of quality, reliability and service. Over the last 50 years, we have engendered exceptional customer loyalty for our products because of our ability to satisfy the stringent demands of our customers. As a result, we believe our installed base is the largest in the industry with over 500,000 snowplows and sand and salt spreaders in service. Because sales of snowplows and sand and salt spreaders are primarily driven by the need of our core end-user base to replace worn existing equipment, we believe our substantial installed base provides us with a high degree of predictable sales over any extended period of time.

We believe we have the industry's most extensive North American distributor network, which primarily consists of over 720 truck equipment distributors who purchase directly from us and are located throughout the snowbelt regions in North America (primarily the Midwest, East and Northeast regions of the United States as well as all provinces of Canada). We have longstanding relationships with many of our distributors, with an average tenure of approximately 15 years. Beginning in 2005, we began to extend our reach to international markets, establishing distribution relationships in Northern Europe and Asia, where we believe meaningful growth opportunities exist.

We believe we are the industry's most operationally efficient manufacturer due to our vertical integration, highly variable cost structure and intense focus on lean manufacturing. We continually seek to use lean principles to reduce costs and increase the efficiency of our manufacturing operations. Our manufacturing efficiencies have contributed to the increase of our gross profit per unit by approximately 3% per annum, compounded annually, from 2000 to 2009 while our revenue per unit has increased approximately 5% per year from 2002 and 2009. From 2004 through 2009, our factory-wide productivity improved by approximately 35% as a result of our lean initiatives. Our lean initiatives have also reduced internal scrap rates by 19% from 2005 to 2009. While we currently manufacture our products in three facilities that we own in Milwaukee, Wisconsin, Rockland, Maine and Johnson City, Tennessee, we have improved our manufacturing efficiency to the point that we will be closing our Johnson City, Tennessee facility effective mid-2010. We realized $0.2 million of cost savings in 2009 related to the closing of this facility and we currently expect that the closing will yield estimated annual cost savings of approximately $1.5 million in 2010, ramping up to approximately $4 million in 2011 (comprised of $3 million from the elimination of fixed costs such as salaries and benefits, facility costs, supplies and travel and $1 million of freight savings due to the elimination of intercompany shipments),

with no anticipated reduction in production capacity. Furthermore, our manufacturing efficiency allows us to deliver desired products quickly to our customers during times of sudden and unpredictable snowfall events, when our customers need our products immediately. Our ability to deliver products on a rapid and efficient basis through lean manufacturing allows us to both better serve our existing customer base and capture new customers from competitors who we believe cannot service their customers' needs with the same speed and reliability.

History

The FISHER® and WESTERN® brands date back to the late 1940s and early 1950s, respectively. Fisher Engineering was founded by Dean Fisher in 1948 and was a leading light truck snow and ice control equipment company in the East and Northeast regions of the United States. Western Products was founded in the early 1950s by Douglas Seaman and focused on the West, Midwest and East regions of the United States. Our predecessor company, Douglas Dynamics Incorporated, which we refer to in this prospectus as DDI, was founded by Western's Douglas Seaman in 1977 and acquired Fisher Engineering in 1984.

In July 1991, DDI was acquired by Armco Inc., which merged with AK Steel Corporation in September 1999. In March 2004, Aurora Capital Group acquired our current business from AK Steel Corporation. In April 2004, Aurora Capital Group sold a proportionate number of shares of our common and preferred stock to an affiliate of Ares Management at the same per share price paid by Aurora Capital Group in the acquisition from AK Steel Corporation. In June 2004, Douglas Holdings and Aurora Capital Group sold additional of shares of our common and preferred stock to certain co-investors at the same per share price paid by Aurora Capital Group in the Acquisition from AK Steel Corporation.

In November 2005, we acquired Blizzard Corporation, which expanded the breadth of our distributor network and our product line. Through the acquisition of Blizzard Corporation, we acquired the highly-patented, groundbreaking BLIZZARD® technology that represents one of the most significant innovations in our industry. More specifically, we acquired industry-leading hinged plow technology, which has significant advantages over competing products because it utilizes expandable wings for more effective snow removal.

Principal Stockholders

The Aurora Entities are affiliates of Aurora Capital Group and control the vote with respect to approximately 67.0% of our common stock, prior to giving effect to this offering. Ares Corporate Opportunities Fund, L.P. is an affiliate of Ares Management LLC, which we refer to as Ares Management, and controls the vote with respect to approximately 33.0% of our common stock, prior to giving effect to this offering. After giving effect to this offering, the Aurora Entities and Ares will control the vote with respect to approximately 32.65% and 16.15% of our common stock, respectively.

Aurora Capital Group is a Los Angeles-based private equity firm managing over $2.0 billion that utilizes two distinct investment strategies. Aurora Equity focuses principally on control-investments in middle-market industrial, manufacturing and selected service oriented businesses, each with a leading position in sustainable niches, a strong cash flow profile, and actionable opportunities for both operational and strategic enhancement. Aurora Resurgence invests in debt and equity securities of middle-market companies and targets complex situations that are created by operational or financial challenges either within a company or a broader industry.

Ares Management is a global alternative asset manager and SEC-registered investment adviser with total committed capital under management of approximately $37 billion as of March 31, 2010. With complementary pools of capital in private equity, private debt and capital markets, Ares Management has the ability to invest across all levels of a company's capital structure—from senior debt to common equity—in a variety of industries in a growing number of international markets. The

Ares Private Equity Group manages over $6 billion of committed capital and has a track record of partnering with high quality, middle-market companies and creating value with its flexible capital. The firm is headquartered in Los Angeles with over 250 employees and professionals located across the United States and Europe.

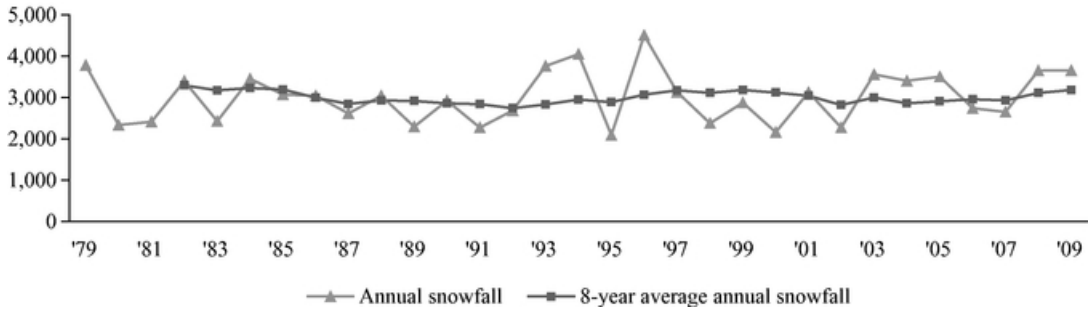
Industry Overview

The light truck snow and ice control equipment industry in North America consists predominantly of domestic participants that manufacture their products in North America. Snowplow sales account for a significant portion of snow and ice control equipment sales for light trucks, with sand and salt spreader sales accounting for a lesser portion. The annual demand for snow and ice control equipment is driven primarily by the replacement cycle of the existing installed base, which is predominantly a function of the average life of a snowplow or spreader and is driven by usage and maintenance practices of the end-user. We believe actively-used snowplows are typically replaced, on average, every 7 to 8 years.

The primary factor influencing the replacement cycle for snow and ice control equipment is the level, timing and location of snowfall. Sales of snow and ice control equipment in any given year and region are most heavily influenced by local snowfall levels in the prior snow season. Heavy snowfall during a given winter causes equipment usage to increase, resulting in greater wear and tear and shortened life cycles, thereby creating a need for replacement equipment and additional parts and accessories. Moreover, in our experience, the timing of snowfall in a given winter also influences our end-users' decision-making process. Because an early snowfall can be viewed as a sign of a heavy upcoming snow season, our end-users may respond to an early snowfall by purchasing replacement snow and ice control equipment earlier than they otherwise might have. Alternatively, light snowfall during a given winter season may cause equipment usage to decrease, thereby extending its useful life and delaying replacement equipment purchases.

While snowfall levels vary within a given year and from year-to-year, snowfall, and the corresponding replacement cycle of snow and ice control equipment, is relatively consistent over multi-year periods. The following chart depicts aggregate annual and eight-year (based on the typical life of our snowplows) rolling average of the aggregate snowfall levels in 66 cities in 26 snowbelt states across the Northeast, East, Midwest and Western United States where we monitor snowfall levels) from 1980 to 2009. As the chart indicates, since 1982 aggregate snowfall levels in any given rolling eight-year period have been fairly consistent, ranging from 2,742 to 3,295 inches.

Snowfall in Snowbelt States (inches)
(for October 1 through March 31)



Note: The 8-year rolling average snowfall is not presented prior to 1982 for purposes of the calculation due to lack of snowfall data prior to 1975. Snowfall data in this chart is not adjusted for snowfall outside of the 66 cities in the 26 states reflected.

Source: National Oceanic and Atmospheric Administration's National Weather Service.

The demand for snow and ice control equipment can also be influenced by general economic conditions in the United States, as well as local economic conditions in the snowbelt regions in North America. In stronger economic conditions, our end-users may choose to replace or upgrade existing equipment before its useful life has ended, while in weak economic conditions, our end-users may seek to extend the useful life of equipment, thereby increasing the sales of parts and accessories. Weak economic conditions may also cause our end-users to shift their purchases from our more profitable products to our less profitable products, or to less expensive competitor products. However, since snow and ice control management is a non-discretionary service necessary to ensure public safety and continued personal and commercial mobility in populated areas that receive snowfall, end-users cannot extend the useful life of snow and ice control equipment indefinitely and must replace equipment that has become too worn, unsafe or unreliable, regardless of economic conditions.

Sales of parts and accessories for 2009 and 2008 were $26.9 million and $28.7 million, respectively, or approximately 58.3% and 85.8% higher than average annual parts and accessories sales over the preceding ten years (from 2000 to 2007, sales of parts and accessories ranged from approximately $9 million to $19 million per year, with an average of approximately $14 million). Management believes the increased sales of parts and accessories is largely a result of the deferral of new equipment purchases due to the severe economic downturn in 2008 and 2009, as many end-users chose to extend the life of their existing equipment beyond the typical replacement cycle. More typically, management believes sales of parts and accessories range from $14 million to $24 million. Parts and accessories margins have averaged approximately 50% over the past five years.

Although sales of snow and ice control units increased by 9.6% and 18.2% in 2009 and 2008, respectively, as compared to 2007, management believes that absent the recent economic downturn, equipment sales in 2009 and 2008 would have been considerably higher due to the high levels of snowfall during the year. Equipment unit sales in 2009 remained 13.9% below the immediately preceding ten-year average, despite the fact that snowfall levels were approximately 19% above the immediately preceding ten-year average (excluding units sold by Blizzard Corporation prior to its acquisition by us in November 2005). Equipment unit sales in 2008 remained 9% below the immediately preceding ten-year average, despite the fact that snowfall levels in 2008 were approximately 22% above the immediately preceding ten-year average (excluding units sold by Blizzard Corporation prior to its acquisition by us in November 2005). Management believes this deferral of new equipment purchases could result in an elevated multi-year replacement cycle as the economy recovers.

Long-term growth in the overall snow and ice control equipment market also results from geographic expansion of developed areas in the snowbelt regions of North America, as well as consumer demand for technological enhancements in snow and ice control equipment and related parts and accessories that improves efficiency and reliability. Continued construction in the snowbelt regions in North America increases the aggregate area requiring snow and ice removal, thereby growing the market for snow and ice control equipment. In addition, the development and sale of more reliable, more efficient and more sophisticated product, has contributed to an approximate 2% to 4% price increase in each of the past five years.

Competitive Strengths

We are the North American market leader in snow and ice control equipment for light trucks with what we believe to be an industry leading installed base of over 500,000 snowplows and sand and salt spreaders in service. We compete solely with other North American manufacturers who do not benefit from our extensive distributor network, manufacturing efficiencies and depth and breadth of products. As the market leader, we enjoy a set of competitive advantages versus smaller equipment providers, which allows us to generate robust cash flows in all snowfall environments and to support continued investment in our products, distribution capabilities and brand regardless of annual volume fluctuations. We believe these advantages are rooted in the following competitive strengths and reinforces our industry leadership over time.

Exceptional Customer Loyalty and Brand Equity. Our brands enjoy exceptional customer loyalty and brand equity in the snow and ice control equipment industry with both end-users and distributors. We have developed this exceptional loyalty through over 50 years of superior innovation, productivity, reliability and support, consistently delivered season after season. We believe many of our end-users are second and third generation owners of our snow and ice control equipment. We believe past brand experience, rather than price, is the key factor impacting snowplow purchasing decisions. Because a professional snowplower can typically recoup the cost of a plow within a very short period of time, and in some cases, as a result of one major snowfall event, we believe quality, reliability and functionality are more important factors in our end-users' purchasing decisions and further believe that professional snowplowers are often willing to pay a premium price for reputable products that include these premium features. For example, we believe only a small fraction of commercial end-users consider price as the primary factor in their purchase decision.

Broadest and Most Innovative Product Offering. We provide the industry's broadest product offering with a full range of snowplows, sand and salt spreaders and related parts and accessories. We believe we maintain the industry's largest and most advanced in-house new product development program, historically introducing several new and redesigned products each year. Our broad product offering and commitment to new product development is essential to maintaining and growing our leading market share position as well as continuing to increase the profitability of our business. We believe we have introduced or redesigned more efficient and productive products over the last five years (including the redesigned Fisher and Western V Plows in 2006 and the Fisher and Western Power Plows in 2007) than any of our competitors, driving increased value for our customers. Our products are covered by over 40 issued or pending U.S. and Canadian patents related to snow and ice control equipment technologies and other important product features and designs.

Extensive North American Distributor Network. We benefit from having the most extensive North American direct distributor network in the industry, providing a significant competitive advantage over our peers. We have over 720 direct distributor relationships which provide us with the ability to reach end-users throughout North America to achieve geographic diversification of sales that helps insulate us from annual variations in regional snowfall levels. Our distributors function not only as sales and support agents (providing access to parts and service), but also as industry partners providing real-time end-user information, such as retail inventory levels, changing consumer preferences or desired functionality enhancements, which we use as the basis for our product development efforts. We believe a majority of our distributors choose to sell our products exclusively, even though few are contractually required to do so. Despite the importance of our distributor network as a whole, no one distributor represents more than 5% of our net sales.

Leader in Operational Efficiency. We believe we are a leader in operational efficiency in our industry, resulting from our application of lean manufacturing principles and a highly variable cost structure. By utilizing lean principles, we are able to adjust production levels easily to meet fluctuating demand, while controlling costs in slower periods. This operational efficiency is supplemented by our highly variable cost structure, driven in part by our access to a sizable temporary workforce (comprising approximately 10-15% of our total workforce), which we can quickly adjust, as needed. Due in substantial part to our operational efficiency, we have increased our variable gross profit per unit by approximately 4% per annum from 2002 through 2005, the year we acquired Blizzard, and by approximately 6% per annum from 2006 through 2009. The upcoming closure of our Johnson City, Tennessee manufacturing facility, which we believe will save us approximately $4 million annually without a loss of production capacity, demonstrates the success of our lean initiatives. These manufacturing efficiencies enable us to respond rapidly to urgent customer demand during times of sudden and unpredictable snowfalls, allowing us to provide exceptional service to our existing customer base and capture new customers from competitors that we believe cannot service their customers' needs with the same speed and reliability.

Strong Cash Flow Generation. We are able to generate significant cash flow as a result of relatively consistent high profitability (Adjusted EBITDA Margins averaged 25.4% for the three-year period from 2007 to 2009), low capital spending requirements and predictable timing of our working capital requirements. See "Prospectus Summary —Summary Historical Consolidated Financial and Operating Data" for a discussion of why management uses Adjusted EBITDA Margins and a reconciliation of net income to Adjusted EBITDA. We have historically been able to pass through increases in operational costs and raw material prices, including steel surcharges when necessary, to maintain our profitability. Our cash flow results will also benefit substantially from approximately $18 million of annual tax-deductible intangible and goodwill expense over the next ten years, which has the impact of reducing our corporate taxes owed by approximately $6.7 million on an annual basis during this period, in the event we have sufficient taxable income to utilize such benefit. Our significant cash flow has allowed us to reinvest in our business, pay down long term debt by approximately $17 million over the past six years and pay substantial dividends on a pro rata basis to our stockholders, although no such dividends have been declared since 2006.

Experienced Management Team. We believe our business benefits from an exceptional management team that is responsible for establishing our leadership in the snow and ice control equipment industry for light trucks. Our senior management team, consisting of four officers, has an average of approximately 19 years of weather-related industry experience and an average of over nine years with our company. James Janik, our President and Chief Executive Officer, has been with us for over 17 years and in his current role since 2000, and through his strategic vision, we have been able to expand our distributor network and grow our market leading position.

Business Strategy

Our business strategy is to capitalize on our competitive strengths to maximize cash flow to pay dividends, reduce indebtedness and reinvest in our business to create stockholder value. The building blocks of our strategy are:

Continuous Product Innovation. We believe new product innovation plays an essential role in maintaining and growing our market-leading position in the snow and ice control equipment industry. We will continue to focus on developing innovative solutions to increase productivity, ease of use, reliability, durability and serviceability of our products. Our product development teams are guided by extensive market research, as well as real time feedback from our distributors who provide valuable insight into changing customer preferences, desired functionality or product features. In addition, we have incorporated and will continue to incorporate lean manufacturing concepts into our product development process, which has allowed us to reduce the overall cost of development and, more importantly, to reduce our time-to-market by nearly one-half. As a result of these efforts, approximately $73 million, or 50%, of our 2009 equipment sales came from products introduced or redesigned in the last five years.

Distributor Network Optimization. We will continually seek opportunities to optimize our portfolio of over 720 direct distributors by opportunistically adding high-quality, well-capitalized distributors in select geographic areas and by cross-selling our industry-leading brands within our distribution network to ensure we maximize our ability to generate revenue while protecting our industry leading reputation, customer loyalty and brands. Prospective distributors are rigorously screened before they are allowed to sell our snow and ice control products, allowing us to maintain relationships with only those distributors we believe to be the most reputable in the industry. Once selected, we strive to maintain close working relationships with our distributors and actively monitor their performance, quality of service and support and credit profiles. We also focus on further optimizing this network by providing in-depth training, valuable distributor support and attractive promotional and incentive opportunities. As a result of these efforts, we believe a majority of our distributors choose to sell our products exclusively. Over

the last ten years, we have grown our network by over 250 distributors. We believe this sizable high quality network is unique in the industry, providing us with valuable insight into purchasing trends and customer preferences, and would be very difficult to replicate.

Aggressive Asset Management and Profit Focus. We will continue to aggressively manage our assets in order to maximize our cash flow generation despite seasonal and annual variability in snowfall levels. We believe our ability is unique in our industry and enables us to achieve attractive margins in all snowfall environments. Key elements of our asset management and profit focus strategies include:

- employment of a highly variable cost structure facilitated by a core group of workers that we supplement with a temporary workforce as volumes dictate, which allows us to quickly adjust costs in response to real-time changes in demand;
- use of enterprise-wide lean principles, which allow us to easily adjust production levels up or down to meet demand;
- implementation of a pre-season order program, which incentivizes distributors to place orders prior to the retail selling season and thereby enables us to more efficiently utilize our assets; and
- development of a vertically integrated business model, which we believe provides us cost advantages over our competition.

Additionally, although modest, our capital expenditure requirements and operating expenses can be temporarily reduced in response to anticipated or actual lower sales in a particular year to maximize cash flow. Our profit focus is driven primarily by improving unit margins.

Flexible, Lean Enterprise Platform. We intend to utilize lean principles to maximize the flexibility and efficiency of our manufacturing operations while reducing the associated costs. Implementation of these principles has allowed us to substantially improve the productivity of our manufacturing processes through waste elimination and improved space utilization, creating a flexible environment capable of efficiently responding to large variations in end-user demand and delivering best-in-class customer service and responsiveness, thereby enabling us to increase distributor and end-user satisfaction. Moreover, in an environment where shorter lead times and near-perfect order fulfillment are important to our distributors, we believe our lean processes have helped us to improve our shipping performance and build a reputation for providing industry leading shipping performance. In 2009, we fulfilled 98.2% of our orders on or before the requested ship date, without error in content, packaging or delivery, representing our strongest shipping performance to date, as compared to 71.0% in 2005 and 81.5% in 2008.

Our cost reduction efforts also include the rationalization of our supply base and implementation of a global sourcing strategy, resulting in approximately $3.2 million of cumulative annualized cost savings from 2006 to 2009 with the goal of an additional $1.1 million in annualized cost savings in 2010. Since 2006, we have reduced our supply base by 36% from over 450 suppliers to approximately 288 today, with a target of 225 by the end of 2010. This rationalization has allowed us to strengthen our relationships with our remaining suppliers, which in turn has provided us with the ability to receive component deliveries on a more frequent basis, thereby better aligning our supply stock with our production demands.

We have also sought to improve our sourcing capabilities through the use of off-shore suppliers, including suppliers in China, which provide significant cost advantages. As of December 31, 2009, we had the ability to purchase components from 19 suppliers in China. Since 2006, our percentage of lower cost country material purchases has increased from 10.0% to 15.6% of our total purchases. In furtherance of this process, in January 2009, we opened a sourcing office in China, which will become a central focus for specific component purchases and will provide a majority of our procurement cost savings in the future. In 2009, our off-shore sourcing initiatives resulted in cost savings of $521,000, or

$1.1 million on an annualized basis. We expect that these sourcing changes will continue to provide us with cost savings in 2010. We typically stock additional inventory from off-shore suppliers or partner with off-shore suppliers who stock inventory in the United States in order to mitigate the risk of any shipping delays. See "Risk Factors—We depend on outside suppliers who may be unable to meet our volume and quality requirements, and we may be unable to obtain alternative sources."

Growth Opportunities

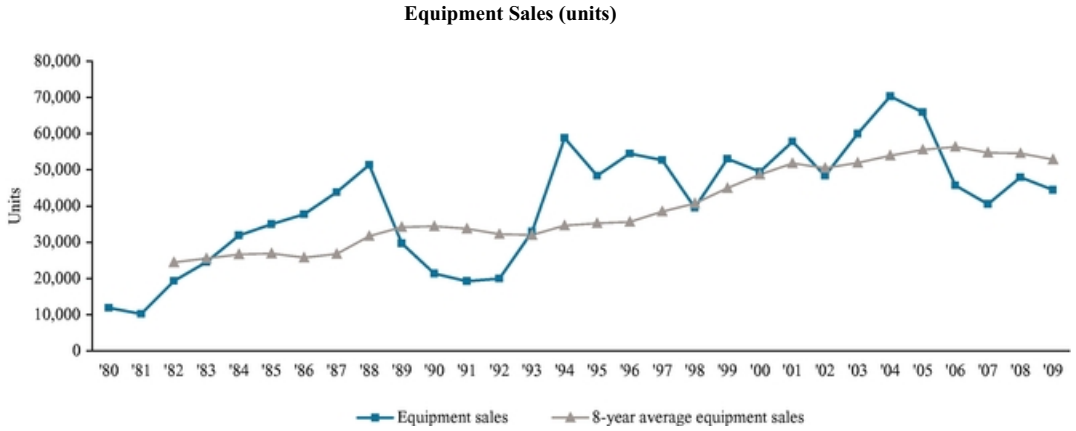
Increase Our Industry Leading Market Share. We plan to leverage our industry leading position, distribution network and new product innovation capabilities to capture market share in the North American snow and ice control equipment market, focusing our primary efforts on increasing penetration in those North American markets where we believe our overall market share is less than 50%. We also plan to continue growing our presence in the snow and ice control equipment market outside of North America, particularly in Asia and Europe, which we believe could provide significant growth opportunities in the future.

Opportunistically Seek New Products and New Markets. We will consider external growth opportunities within the snow and ice control industry and other equipment or component markets. We plan to continue to evaluate acquisition opportunities within our industry that can help us expand our distribution reach, enhance our technology and as a consequence improve the breadth and depth of our product lines. In November 2005, we purchased Blizzard Corporation and its highly-patented groundbreaking hinged plow technology and have also incorporated this technology into our Western and Fisher snowplows. We also consider diversification opportunities in adjacent markets that complement our business model and could offer us the ability to leverage our core competencies to create stockholder value.

Products

We categorize our products into two product classes: (1) snow and ice control equipment for use on light trucks, and (2) related parts and accessories. We offer our products under three brands: WESTERN®, FISHER® AND BLIZZARD®. During the year ended December 31, 2009, WESTERN®, FISHER® AND BLIZZARD® products accounted for approximately 47%, 45% and 8% of our net sales, respectively. We continually strive to be the leading innovator in our industry and each year we typically introduce several new and updated products. In 2007, 2008 and 2009, sales of snow and ice control equipment accounted for approximately 87%, 84% and 85%, respectively, of our net sales, with related parts and accessories accounting for approximately 13%, 16% and 15% of our net sales, respectively.

The following chart depicts annual unit sales of our snow and ice control equipment since 1980 and an eight-year rolling average since 1982:



Note: The 8-year rolling average equipment sales are not presented prior to 1982 for purposes of the calculation chart due to lack of equipment unit sales data prior to 1975. In addition, units of equipment sales for years 2002 through 2005 are adjusted to include units sold by Blizzard Corporation prior to its acquisition by us in November 2005. Data for Blizzard Corporation prior to 2002 is not available.

Snow and Ice Control Equipment

Our snow and ice control equipment products consist of snowplows and sand and salt spreaders for light trucks. We offer a broad variety of snowplows, with a full range of models designed for use by professionals, businesses, municipalities and homeowners on light trucks. The current retail prices of our snowplows generally range from approximately $4,000 to $8,000. Snowplows are highly engineered products comprised of mechanical, hydraulic and electrical components that must be effectively integrated with vehicles to function properly and conform to government passenger vehicle regulations. Each snowplow consists of four components, which are the blade, the hydraulic system, the mount, and the A-Frame, Quadrant and Lift, which we refer to in this prospectus as the AQ&L. Typically each truck model or family of truck models requires a mount designed for that model or family of models. However, in most cases generally, various hydraulic systems, blade and AQ&L can be mixed and matched for mounts designed for a particular truck model, which allows distributors more flexibility when ordering products from us. We believe actively-used snowplows are typically replaced, on average, every 7 to 8 years.

The WESTERN®, FISHER® and BLIZZARD® brands differ in the way their snowplows react when hitting significant obstacles while plowing. When an object is struck with a WESTERN® or BLIZZARD® snowplow, the entire snowplow blade trips forward, whereas with a FISHER® snowplow, in response to similar circumstances, only the edge of the snowplow blade trips. Because we believe that both responses are equally effective in protecting the snowplow and the vehicle, we maintain this difference across our WESTERN®, FISHER® and BLIZZARD® snowplows to cater to what are, in management's experience, deep-rooted regional end-user preferences.

We also offer a broad variety of sand and salt spreaders, with a full range of models designed for professionals, businesses, municipalities and homeowners. Our spreaders are interchangeable among different truck models and are typically mounted in the bed or on the vehicle hitch of a light truck and are intended to control ice on driveways, roads and parking lots by spreading material such as sand, salt and calcium chloride. The revenue and gross profit derived from our sales of sand and salt spreaders constitute less than 10% of our total revenue and gross profit. The current retail prices of our sand and salt spreaders generally range from approximately $1,600 to $11,500. Notwithstanding the minor distinctions noted above, we believe nearly all of the products sold under the WESTERN® and

FISHER® brands are identical or practically identical to one another (with the only differences generally being cosmetic). Further, the Company's BLIZZARD® product line currently consists of a subset of the products sold under the WESTERN® and FISHER® names, with relatively minor cosmetic differences.

Parts and Accessories

We also offer a broad range of parts and accessories (comprised of over 7,500 SKUs) for our snowplows and sand and salt spreaders, including snowplow deflectors, conversion kits and maintenance kits. Parts and accessories sales are driven mainly by our installed base which we believe to be over 500,000 snowplows and sand and salt spreaders in service. We continue to provide mounts for older light truck models and parts and accessories for older equipment models on an as-needed basis.

Product Development

We believe our market leadership position permits us the flexibility to devote more resources to research and development than any of our competitors. Our product development infrastructure is staffed with engineers and other personnel dedicated to generating new products and future enhancements. Research and development is a major focus of our management, and expenditures over the past 5 years on new product development have annually averaged approximately 1% to 2% of our net sales, and in 2009, approximately $73 million or 50% of our equipment sales came from products introduced or redesigned over the last five years. New product development projects are typically the result of end-user feedback, plow productivity improvements, quality and reliability improvements and vehicle application expansion.

We have successfully implemented a lean product development process to streamline the manufacture of new products, pairing members from financial, engineering, marketing and sales into a single project team to ensure that prototypes developed are of the highest quality and are manufactured in the most cost efficient manner. This process is characterized by the following six stages: (1) idea development, (2) product specification development and feasibility study, (3) prototype development, (4) prototype testing and financial modeling, (5) product production and (6) product and process refinement. We believe our success in refining this multistage process has streamlined the delivery of new products to the marketplace, and enables us to stay ahead of our competitors in delivering innovations to the market. For example, we have integrated fully digital product simulation into our development process, which enables us to (1) accelerate the development cycle, (2) optimize product design and (3) maximize component commonality across products. Through our use of digital simulation we have reduced our test cycle time from years to days.

At any given time, we may be actively pursuing between two and four new product development projects. Prototypes resulting from these projects are regularly subjected to head-to-head field tests versus the nearest competing product placed in the field. In addition to field testing, we utilize digital simulation to ensure that all prototypes undergo rigorous computer-aided simulations that attempt to ensure superior product performance and overall product quality.

Recent product introductions in 2009 include the FISHER® HT Series™ (half-ton plow) and POLY-CASTER™ (Hopper Spreader), the WESTERN® HTS™ (half-ton plow) and Tornado™ (Hopper Spreader) and the BLIZZARD® POWER HITCH™ 2 (detachable plow mounting system) and ICE CHASER™ (Hopper Spreader).

In addition, adjusting our product designs to light truck design changes is a significant activity of our product development teams. In general, major light truck design changes, such as new truck introductions, are announced well in advance of the new light truck design being available to the market. This allows us sufficient time to design or redesign our products so that they are compatible with the new light truck design at the time of its release or shortly thereafter. In such situations, we are

often able to utilize a current mount design which minimizes the design work required on our part. However, there are significant truck design changes that require us to redesign our mounts so that our products are compatible with new light truck designs.

End-Users

Our end-users include professional snowplowers (who we believe comprise over 50% of our end-user base), businesses, municipalities and homeowners. Different segments of our end-user base use our products differently. For instance, professional snowplowers use our snow and ice control equipment during the winter to earn an income, clearing parking lots, driveways and private roads. As a result, they place a high priority on productivity, reliability and service. We believe their heavy and prolonged usage of our equipment typically requires these end-users to replace their equipment every 5 to 7 years. Businesses generally use our equipment to clear parking lots, and thus their usage of our equipment is more limited, in turn resulting in what we believe to be a typical replacement cycle of 8 to 10 years. Our municipality users include cities and counties that plow government owned property. Because of the heavy usage of our equipment by municipalities, we believe the typical replacement cycle for those users is 5 to 7 years. Homeowners use our equipment to clear their driveways and other personal property. Because their usage is also limited, we believe the typical replacement cycle for such users is 10 to 15 years.

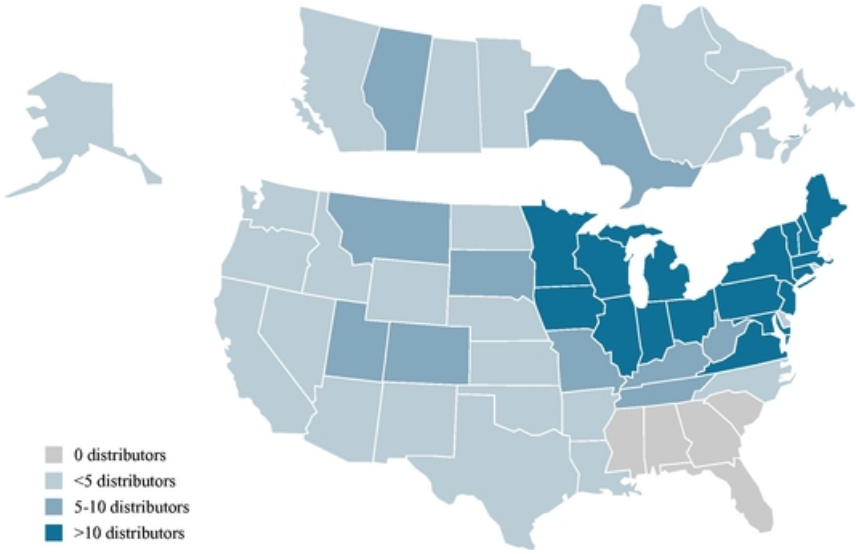
Distributor Network

We sell our products exclusively through what we believe is the industry's most extensive North American distributor network, which primarily consists of over 720 truck equipment distributors who purchase directly from us and are located throughout the snowbelt regions in North America (primarily the Midwest, East and Northeast regions of the United States as well as certain regions of Canada). We have longstanding relationships with many of our distributors, with an average tenure of approximately 15 years. While we have exclusivity arrangements with less than 1% of our distributors, we believe that a majority of our distributors choose to exclusively carry our products because of our commitment to delivering quality, innovation, reliability and support.

Since our distributors serve as our primary sales and service contacts with our-end users, we rely on our distributors to represent and preserve our brand image. Thus, we seek to foster relationships with distributors who share our commitment to quality, reliability and support. To that end, we rigorously screen prospective distributors before allowing them to sell our products, and actively monitor the performance, quality of service, support and credit profiles of our existing distributors. In addition, we also rely on our distributors to as a source of real-time end-user information, providing valuable insight into the product preferences, experiences and demands of our end-users. We utilize this information to help us plan our manufacturing schedule as well as to formulate ideas for improving our existing product offerings and developing new products.

A breakdown of our distributor base is reflected in the table below. For 2009, our top 10 distributors accounted for approximately 20% of net sales and no single distributor accounted for more than 5% of our net sales. In 2007, 2008 and 2009, 90.8%, 89.1% and 89.5% of net sales, respectively, were from the U.S., and 8.7%, 10.1% and 10.3% of net sales, respectively, were from Canada, and less than 1% of net sales were from outside of North America. Further, in 2009, 27%, 27% and 30% of our net sales were derived from sales to distributors in the Northeast, Eastern and Midwest portions of the United States, respectively, and 16% of our net sales were derived collectively from the Western United States, Alaska, Canada and other international sales.

Distributors by Region



Note: Distribution not represented on map includes China (1), Finland (2), South Korea (1), Scotland (1), Northern Ireland (1), and Australia (1).

Sales Programs and Financing Program

We offer a number of sales programs to our distributors to finance the purchase of our products. One such program is our pre-season sales program, which not only benefits our distributors, but also benefits us by helping us to manage the seasonality of our business. During the second and third quarters, we offer our distributors the option of either (1) a purchase price discount, with the percentage discount being highest the earlier in the season that the distributor purchases and pays for our products, or (2) deferring payment until the fourth quarter. Under either option product shipment and acceptance occurs during the pre-season sales period. Customers do not have a right to return. On average, approximately 60% to 65% of our annual shipments occur during the pre-season sales period. Distributors who purchase our products during the first or fourth quarter, on the other hand, must deliver payment to us within 30 days of shipment. Our backlog as of January 25, 2009 and 2010 was $1.6 million and $1.6 million, respectively. We expect that all backlog as of January 25, 2010 will be shipped in 2010.

We are also party to a finance program in which certain distributors may elect to finance their purchases from us through a third party financing company. Pursuant to the terms of this financing program, we provide the third party financing company recourse against us regarding the collectability of the receivables to induce the third party financing company to provide such financing to our distributors. Distributors who purchase our products through this financing arrangement are offered the same pre-season sales incentives as distributors who purchase directly from us, the terms of which are described above. In each of the years ended December 31, 2007, 2008 and 2009, approximately 2% of our net sales were financed by our distributors through a third party financing company. If the third party financing company is unable to collect from the distributor the amounts due in respect of the product financing, we are obligated to repurchase any repossessed inventory plus any legal fees incurred by the financing company. Historically, repurchases of inventory and uncollectible amounts related to sales financed under this program have been immaterial.

We also recently launched an end-user financing program. We have partnered with a third party financing company which has agreed to extend credit to our-end users for purchases of our products, subject to credit approval. Once approval is obtained, our end-users can then place an order directly for our products with our distributors. The third party financing company bears the residual risk for the debt if end-users are unable to fulfill their credit obligations. This program is designed to provide our end-users with a more accessible avenue for obtaining credit during this economic downturn. As this program commenced in November 2009 following the conclusion of our peak sales seasons, we have not yet determined its impact on our sales.

Sales and Marketing

We have dedicated field sales staffs for each of our three brands. These brands are WESTERN®, FISHER® and BLIZZARD®. As we do not sell directly to end-users, locating and developing the best distributors in each key geographic trade area is the primary focus of our sales force. Sales personnel actively assist their distributors in key business areas such as promotional activities, sales tactics, and customer care and product knowledge. In addition, we also sponsor continued education of our distributor network through regional technical service schools and seminars. Our sales staff is compensated in the form of a base salary and a performance-based bonus.

Our marketing group focuses on assuring superior WESTERN®, FISHER® and BLIZZARD® brand management. The marketing group's main activities include primary and secondary market research, driving our multifunctional product development process, ensuring successful new product launches and devising complementary promotional strategies.

Manufacturing/Facilities

Our manufacturing processes include machining, fabricating, welding and coating with all facilities having extensive assembly and test capabilities. Through asset management initiatives such as lean manufacturing, we seek to continuously improve processes, quality and costs of operations. While we currently manufacture our products in three facilities that we own in Milwaukee, Wisconsin, Rockland, Maine and Johnson City, Tennessee, we have improved our manufacturing efficiency to the point that we will be closing our Johnson City, Tennessee facility effective mid-2010. We expect that the closing of this facility will yield estimated cost savings of approximately $4 million annually, with no anticipated reduction in production capacity. Furthermore, to help manage the seasonality of our business, we strive to normalize our production volume on a fairly constant basis throughout the year and supply most of our products from inventory. Through our asset management techniques, which include a highly variable cost structure that utilizes a temporary workforce, we are able to efficiently ramp up or down production in response to changing demand. Our three manufacturing facilities are described below as well as further details regarding the closure of our Johnson City, Tennessee facility.

Milwaukee, Wisconsin Facility: Our Milwaukee facility produces all of our hydraulic system kits for our snowplows, most of the WESTERN® straight blades and various WESTERN® mount and AQ&L attachments. Originally built in 1965, with additions in 1975, 1996 and 2002, the facility has 130,000 square feet of manufacturing and 17,000 square feet of office space.

Rockland, Maine Facility: Built in 2000, our Rockland facility produces all of the straight blades for FISHER®, the heavyweight blades for WESTERN®, the V-Plows for WESTERN® and FISHER® and mount and AQ&L attachments. This facility has 126,000 square feet of manufacturing and 17,000 square feet of office space.

Johnson City, Tennessee Facility: The Johnson City facility, which we plan to close in mid-2010, is currently our largest facility and produces all of our BLIZZARD® snowplows, sand and salt spreaders, a number of mount and AQ&L attachments and selected accessories. The facility was originally built in

1974 and was expanded in 1992 to its current size of 170,000 square feet of manufacturing and 30,000 square feet of office space. As noted above, we have increased our manufacturing efficiency to the point that we will be closing our Johnson City, Tennessee manufacturing facility in mid-2010, reducing our manufacturing facilities from three to two. We plan to relocate production that is currently housed in our Johnson City facility to our Milwaukee and Rockland facilities and expect that the closure of this facility will yield estimated cost savings of approximately $4 million annually. The closure of this facility will result in a net reduction of 110,000 square feet of space, with no anticipated reduction in production capacity. We estimate that capital spending related to the closing of this facility will total approximately $1.4 million in 2010 and 2011. Management expects our depreciation expenses after the closure of the Johnson City facility to be approximately $4 million annually, a reduction from 2009, when our depreciation expenses were $5.8 million. See "Risk Factors—The closure of our Johnson City, Tennessee manufacturing facility may entail risks to our business."

We continually review our operations and invest as needed to upgrade or buy new equipment, refurbish facilities and improve product tooling to meet environmental and regulatory needs and to install modern information systems. From 1992 to 2009, we invested approximately $61 million to support our manufacturing strategy and to maintain our competitive strength in the product manufacturing process. Other than regular capital expenditures for maintenance, we do not anticipate a need for significant facility upgrades in the near term.

Materials

The principal materials used in our snow and ice control equipment business are steel, metal parts, electrical components, hydraulic systems, and hardware components, comprising over 75% of total component purchases. We typically attempt to obtain these materials from more than one third-party supplier. While we have longstanding relationships with many of our suppliers, most of our key supply arrangements are not covered by written contract. During 2009, our top ten suppliers accounted for approximately 48.5% of our raw material and component purchasing. Since 2006, we have aggressively endeavored to rationalize our supply base as well as increase material and component sourcing to lower cost country suppliers. Since that time we have reduced the number of our suppliers by 36% as well as increased our percentage of lower cost country material purchases from 10.0% to 15.6% of our total purchases. Our goal is to increase this percentage to 20.0% in 2010. In furtherance of this process, in January 2009, we opened a sourcing office in China, which will to become a central focus for specific component purchases and provide a majority of our procurement cost savings in the future. In addition, we remain committed to further improving our sourcing in the future by reducing the number of suppliers and increasing off-shore sourcing, including our sourcing activities from China. See "Risk Factors—We depend on outside suppliers who may be unable to meet our volume and quality requirements, and we may be unable to obtain alternative sources."

Seasonality and Year-To-Year Variability

Our business is seasonal and varies from year-to-year. See "Management's Discussion and Analysis of Financial Condition and Results of Operations—Seasonality and Year-To-Year Variability."

Employees

As of December 31, 2009, we had 562 employees, comprised of 173 office and 389 factory employees. Of the 389 factory employees, 56 were temporary employees (as compared to 23 temporary employees as of December 31, 2008), the retention of which allows us to flex factory headcount to match the seasonal fluctuations inherent in the industry. The number of temporary employees we utilize in a given year and within a year varies based upon business conditions and snowfall levels. In 2009, our temporary employee headcount ranged from a low of 10 temporary employees to a high of 66 temporary employees.

Our workforce is entirely non-union, and we believe we maintain good relationships with our employees. As a result of the closure of our Johnson City, Tennessee facility, we anticipate a reduction in total headcount of approximately 100 employees and an offsetting increase in headcount of 85 employees at our Milwaukee and Rockland facilities.

Safety Record and Training Programs

We are committed to the highest levels of safety for our employees and we have numerous health and safety programs in place at our facilities to achieve this overriding objective including holding regular departmental meetings on safety and employing a defined system of monitoring and remedying safety infractions. Our management believes that our safety record not only results in improved employee morale and lower lost time and workers' compensation costs, but is also essential to maintaining our manufacturing quality and efficiency. Since 2000, we have maintained what we believe to be a good record of employee safety, as our incidence rates of recordable cases of work-related non-fatal occupational injuries and illnesses are consistently below the industry average as reported by the Occupational Safety and Health Administration.

Competition

We primarily compete against domestic regional manufacturers of snow and ice control equipment for light trucks, including primarily Meyer Products and Northern Star Industries (the manufacturer of THE BOSS brand of snow and ice control equipment), which are the next largest competitors in the market for snow and ice control equipment for light trucks, as well as Sno-Way, Curtis, Buyers and Hiniker, each of which we believe manufactures its products domestically. We compete against these companies to provide what we believe is the broadest, highest quality, most reliable product offering at competitive prices. We compete solely with other North American manufacturers who do not benefit from our distributor network, manufacturing efficiencies and depth and breadth of products. See "Risk Factors—Risks Related to Our Business and Industry—We face competition from other companies in our industry, and if we are unable to compete effectively with these companies, it could have an adverse effect on our sales and profitability."

Intellectual Property

We rely on a combination of patents, trade secrets and trademarks to protect certain proprietary aspects of our business and technology.

We work aggressively to expand the proprietary position afforded by our patent portfolio, both through acquisitions and original patent filings. We own approximately 28 issued U.S. patents and have approximately 16 U.S. patent applications pending. We also own approximately 15 issued Canadian patents. Our patents relate to snowplow mounts, assemblies, hydraulics, electronics and lighting systems as well as salt and sand spreader assemblies and our patent applications relate to each of the foregoing except for hydraulics and sand and salt spreader assemblies. When granted, each patent has a 17 year duration. The duration of the patents we currently possess range between one year and 15 years of remaining life. Our patent applications date back as far as 2001 and as most recent as 2009.

Our patent portfolio includes the industry leading hinged plow technology for the high growth Power Plow product. The Power Plow has significant advantages over competing products because it utilizes expandable wings and is in turn the most productive plow in the industry in terms of the amount of snow that it moves in any point in time. From 2006 to 2009, our Power Plow sales grew by 49%, positioning us to become the overall leader in hinged plows. Moreover, WESTERN® and FISHER® Power Plows have become the most profitable plows in our product portfolio. We believe the continued penetration of Power Plows with our installed base will be an important driver of profitable

growth as customers continue to replace their existing equipment with higher margin product. We plan to continue building our patent portfolio as we improve existing products and develop new ones.

In addition to protecting our technological innovations through patents, we rely on a combination of registered and unregistered trademark rights to protect our position as a branded company with strong name recognition. We own approximately 20 registered U.S. trademarks and 5 registered Canadian trademarks. We use the registered trademarks WESTERN®, FISHER® and BLIZZARD® in association with their respective product lines and related accessories. We believe that our trademarks are of great value and that the loss of any one or all of our trademark rights could lower sales and increase our costs.

Warranty

Our warranties generally provide, with respect to our snow and ice control equipment, that all material and workmanship will be free from defect for a period of two years after the date of purchase by the end-user, and with respect to parts and accessories purchased separately, that such parts and accessories will be free from defect for a period of one year after the date of purchase by the end-user. Certain snowplows only provide for a one year warranty. We maintain a warranty reserve determined by the amount of our estimated warranty costs based on our prior five years of warranty history utilizing a formula driven by historical warranty expense and applying our management's judgment. We adjust our historical warranty costs to take into account unique factors such as the introduction of new products into the marketplace that do not provide a historical warranty record to assess. The Company accrues for estimated warranty costs as sales are recognized and periodically assesses the adequacy of its recorded warranty liability and adjusts the amount as necessary.

Insurance

Our business has operating risks normally associated with manufacturing concerns experienced by companies that make accessories for passenger vehicles. We maintain a range of insurance policies to cover our assets and employees. We are insured against, among other events, product liability claims, certain environmental contaminations, workers compensation and bodily injury claims, fires and water damage. We believe that the types and amounts of insurance we carry are in accordance with general practices in the snow and ice control equipment industry for light trucks. For some operating risks, we may not obtain insurance if we believe the cost of available insurance is excessive relative to the risks presented. If a significant operating accident or other event occurs and is not fully covered by insurance, it could adversely affect us.

Legal Proceedings

In the ordinary course of business, we are engaged in various litigation primarily including product liability and intellectual property disputes. However, management does not believe that any current litigation is material to our operations or financial position. In addition, we are not currently party to any environmental-related claims or legal matters.

Regulation

Our operations are directly and indirectly subject to extensive federal, state and local environmental and safety laws and regulations relating to, among other things, the generation, storage, handling, emission, transportation, disposal and discharge of hazardous and non-hazardous substances and materials into the environment and employee health and safety. In particular, we and our distributors are subject to the requirements of the National Traffic and Motor Vehicle Safety Act of 1966, which prohibits the manufacture or sale in the United States of any new motor vehicle accessory that does not conform to applicable motor vehicle safety standards established by the National Highway

Traffic Safety Administration. Violations of these laws and regulations could result in an assessment of significant costs to us, including civil or criminal penalties, claims by third parties for personal injury or property damage, requirements to investigate and remediate contamination and the imposition of natural resource damages. Furthermore, under certain environmental laws, current and former owners and operators of contaminated property or parties who sent waste to the contaminated site can be held liable for cleanup, regardless of fault or the lawfulness of the original disposal activity. Among the hazardous materials that we use in our business (and that were previously used on our properties) are hydraulic oil, powder coating material, waste water treatment material including sodium hydroxide, sulfuric acid, hydrofluoric acid, phosphoric acid, P-819E flocculent, and P-891L coagulant, cylinders of oxygen, small propane tanks and acetylene. We believe we are in compliance with applicable rules and regulations in all material respects.

MANAGEMENT AND BOARD OF DIRECTORS

Directors And Executive Officers

The following table sets forth certain information with respect to our executive officers and directors as of January 29, 2010. As of such date, Douglas Holdings' Board of Directors consisted of seven members.

Name	Age	Position
James L. Janik	53	President and Chief Executive Officer; Director
Robert McCormick	49	Vice President, Chief Financial Officer, Treasurer and Secretary
Mark Adamson	52	Vice President, Sales and Marketing
Keith Hagelin	49	Vice President, Operations
Michael Marino	30	Director
Jack O. Peiffer	76	Director
Nav Rahemtulla	35	Director
Mark Rosenbaum	36	Director
Jeffrey Serota	43	Director
Michael W. Wickham	63	Director

James L. Janik has been serving as our President and Chief Executive Officer and Director since 2004 and served as President and Chief Executive Officer of Douglas Dynamics Incorporated, the entity that previously operated our business, from 2000 to 2004. Mr. Janik was Director of Sales of our Western Products division from 1992 to 1994, General Manager of our Western Products division from 1994 to 2000 and Vice President of Marketing and Sales from 1998 to 2000. Prior to joining us, Mr. Janik was the Vice President of Marketing and Sales of Sunlite Plastics Inc., a custom extruder of thermoplastic materials, for two years. During the 11 prior years, Mr. Janik held a number of key marketing, sales and production management positions for John Deere Company. Mr. Janik's qualifications to serve on our Board of Directors include his 17 years of experience at our Company, including his 10 years of experience as our and Douglas Dynamics Incorporated's President and Chief Executive Officer, as well as his depth of experience at businesses affected by weather-related seasonality. This experience, comprehensive knowledge of the snow and ice control equipment industry, and inside perspective of the day-to-day operations of the Company provides essential insight and guidance to our Board of Directors.

Robert McCormick has been serving as our Vice President, Chief Financial Officer and Treasurer since September 2004 and as our Secretary since May 2005. Mr. McCormick served as our Assistant Secretary from September 2004 to May 2005. Prior to joining us, Mr. McCormick served as President and Chief Executive Officer of Xymox Technology Inc. from 2001 to 2004. Prior to that, Mr. McCormick served in various capacities in the Newell Rubbermaid Corporation, including President from 2000 to 2001 and Vice President Group Controller from 1997 to 2000. While Mr. McCormick served as President, he was responsible for Newell's Mirro / Wearever Cookware, and as Vice President Group Controller, he was responsible for worldwide strategic and financial responsibilities for 12 company divisions with sales of over two billion dollars.

Mark Adamson has been serving as our Vice President, Sales and Marketing since 2007. Prior to joining us, Mr. Adamson held numerous senior level management positions with industry leaders in the grounds care industry, including John Deere Company from 1980 to 2002 and Gehl Corporation from

2002 to 2007. From 2003 to 2005, he was the Manager, Regional Sales & Distribution of Gehl Company, directing the sales and marketing activities of certain sales field managers in the northeastern United States responsible for Gehl product sales and rental., and from 2005 to 2007, he was the Director, Training and Customer Support, where he directed the aftermarket and training activities of five departments and thirty-two individuals responsible for Gehl and Mustang products worldwide. From 1980 to 2002, Mr. Adamson held several senior level management positions with John Deere Company.

Keith Hagelin has been serving as our Vice President, Operations since 2009, having previously spent 14 years in progressive roles with us, including Plant Manager and General Manager—Rockland and most recently Vice President of Manufacturing from 2007 to 2009. Prior to joining Douglas, Mr. Hagelin spent 13 years at Raytheon Corporation in various manufacturing, production and new product development roles.

Michael Marino has been serving as a Director since 2009. Mr. Marino is also a Vice President of Aurora Capital Group. Aurora Capital Group is an affiliate of the Aurora Entities. The Aurora Entities control the vote with respect to approximately 67% of our common stock, prior to giving effect to this offering. He originally joined Aurora Capital Group in 2003 and, after earning his master's degree in business administration from Harvard Business School, rejoined in 2008. Prior to joining Aurora Capital Group, Mr. Marino was a member of the Investment Banking Division of Goldman, Sachs & Co. Mr. Marino also currently serves on the Board of Directors of Anthony International and Porex Corporation. Mr. Marino was appointed to our Board of Directors by the Aurora Entities (see "—Structure of our Board of Directors"). Mr. Marino's qualifications to serve on our Board of Directors include his financial expertise and his years of experience providing advisory services to us and to other middle-market companies, in particular, in the manufacturing sector. As part of the team at Aurora Capital Group that was initially responsible for evaluating our Acquisition and is responsible for monitoring our progress on an ongoing basis, Mr. Marino has spent an extensive amount of time reviewing, monitoring and analyzing our business. Mr. Marino's extensive knowledge of our business coupled with his knowledge and insight with respect to financial and operational issues adds value to our Board of Directors as a general matter, but especially through the recent period, during which all companies dealt with extremely strained conditions in our economy.

Jack O. Peiffer has been serving as a Director since 2004. Mr. Peiffer was appointed to our Board of Directors by the Aurora Entities (see "—Structure of our Board of Directors"). In 1994, Mr. Peiffer retired from General Electric after 38 years of service. Mr. Peiffer joined General Electric in 1955 in connection with General Electric's Financial Training Program. He served as Vice President and General Manager of General Electric Supply and Senior Vice President of Human Resources for General Electric, and held a variety of financial assignments including Traveling Auditor, Manager of Information and Data Process Services for the Radio Receiver business followed by Senior Financial Management positions in General Electric's Industrial Diamond business, Chemical and Metallurgical Group, and Technical Materials Sector. Mr. Peiffer previously served on the Board of Directors of K&F Industries Holdings, Inc. from 2006 to 2007. Mr. Peiffer's qualifications to serve on our Board of Directors include his extensive experience with public and financial accounting matters during his 38 years of service with General Electric, including 25 years in various financial assignments, as well as his service on boards of directors and audit committees of a variety of public and private companies. Mr. Peiffer also has extensive experience in supply chain management, which together with Mr. Peiffer's experience with accounting principles, financial controls, financial reporting rules and financial and accounting regulations makes him an asset to our Board of Directors.

Nav Rahemtulla has been serving as a Director since 2007. Mr. Rahemtulla is also a Principal in the Private Equity Group of Ares Management. Ares Management is an affiliate of Ares. Ares controls the vote with respect to 33.0% of our common stock, prior to giving effect to this offering. He joined Ares Management in 2001 from DMC Venture Capital where he served as a Director of Corporate

Finance. He was previously a member of the Investment Banking Division of Donaldson, Lufkin & Jenrette Securities Corp. Mr. Rahemtulla also currently serves on the Board of Directors of AmeriQual Group, LLC, Aspen Dental Management Inc., Serta Inc. and Simmons Bedding Company. Mr. Rahemtulla was appointed to our Board of Directors by Ares (see "—Structure of our Board of Directors"). Mr. Rahemtulla's qualifications to serve on our Board of Directors include his financial expertise, his extensive capital markets knowledge and his years of experience providing advisory services to us and to other middle-market companies. Mr. Rahemtulla's prior investment banking experience has also enabled him to provide substantial guidance to us with respect to financing matters. As part of the team at Ares Management that was initially responsible for evaluating its investment in us and is responsible for monitoring our progress on an ongoing basis, Mr. Rahemtulla has spent an extensive amount of time reviewing, monitoring and analyzing our business. Mr. Rahemtulla's knowledge and insight regarding our business and with respect to financial and operational issues adds value to our Board of Directors at all times, but especially during this current period as we undergo significant changes to our capital structure.

Mark Rosenbaum has been serving as a Director since 2005. Mr. Rosenbaum is a partner of Aurora Capital Group, which he joined in 2001. Aurora Capital Group is an affiliate of the Aurora Entities. The Aurora Entities control the vote with respect to approximately 67% of our common stock, prior to giving effect to this offering. Prior to joining Aurora Capital Group, Mr. Rosenbaum worked at Summit Partners from 1997 to 1999 and at Montgomery Securities from 1995 to 1997. Mr. Rosenbaum also currently serves on the Boards of Directors of Anthony International and NuCO2, Inc. Mr. Rosenbaum was appointed to our Board of Directors by the Aurora Entities (see "—Structure of our Board of Directors"). Mr. Rosenbaum's qualifications to serve on our Board of Directors include his leadership experience as a partner at Aurora Capital Group, his financial expertise and his years of experience providing financial advisory services to other middle-market companies. As part of the team at Aurora Capital Group that was initially responsible for evaluating our Acquisition and is responsible for monitoring our progress on an ongoing basis, Mr. Rosenbaum has spent an extensive amount of time reviewing, monitoring and analyzing our business. Mr. Rosenbaum's extensive knowledge of our business coupled with his knowledge and insight with respect to financial and operational issues adds value to our Board of Directors at all times, but especially through the recent period, during which all companies dealt with extremely strained conditions in our economy.

Jeffrey Serota has been serving as a Director since 2004. Mr. Serota is a Senior Partner in the Private Equity Group of Ares Management. Ares Management is an affiliate of Ares. Ares controls the vote with respect to 33.0% of our common stock, prior to giving effect to this offering. Mr. Serota joined Ares in 1997 from Bear, Stearns & Co. where he served as a Vice President in the Investment Banking Department. Mr. Serota also worked at Salomon Brothers Inc. focusing on mergers and acquisitions and merchant banking transactions. Mr. Serota also currently serves on the Boards of Directors of EXCO Resources, Inc., Marietta Corporation, SandRidge Energy, Inc. and WCA Waste Corporation and previously served as a director of EXCO Resources, Inc. from July 2003 to October 2005. Mr. Serota was appointed to our Board of Directors by Ares (see "—Structure of our Board of Directors"). Mr. Serota's qualifications to serve on our Board of Directors include his leadership experience as a partner at Ares Management, his investment banking and financial expertise and his years of experience providing advisory services to other middle-market companies in the industrial sector. As part of the team at Ares Management that was initially responsible for evaluating its investment in us and is responsible for monitoring our progress on an ongoing basis, Mr. Serota has spent an extensive amount of time reviewing, monitoring and analyzing our business. Mr. Serota's knowledge and insight with respect to financial and operational issues adds value to our Board of Directors at all times, but especially through the recent period, during which all companies dealt with extremely strained conditions in our economy.

Michael W. Wickham has been serving as a Director since 2004. Mr. Wickham was appointed to our Board of Directors by the Aurora Entities (see "—Structure of our Board of Directors"). Mr. Wickham retired as Chairman of the Board of Roadway Corporation in December, 2003, where he was Chief Executive Officer from 1997 to 1999 and Chairman and Chief Executive Officer from 1999 until his retirement in 2003. Prior to that, he was the President of Roadway Express, where he held a variety of management positions during his 35-year career with the company. Mr. Wickham also currently serves as a member of the Board of Directors of C.H. Robinson Worldwide and Republic Services, Inc. Mr. Wickham's qualifications to serve on our Board of Directors include his 35 years of managerial experience at Roadway Express, including his six years as Roadway Corporation's Chief Executive Officer. His experience at Roadway brings key senior management and operational insight to our Board of Directors. In particular, Mr. Wickham has significant expertise in transportation and shipment logistics. His service on the Board of Directors of C.H. Robinson Worldwide and Republic Services, Inc. also provides valuable insight on public company governance practices.

Our executive officers (as defined in the SEC's Rule 3b-7) are Messrs. Janik, McCormick, Adamson and Hagelin.

Structure of our Board of Directors

As noted above, our Board of Directors currently consists of seven members. Four of our directors, Messrs. Marino, Peiffer, Rosenbaum and Wickham, were appointed to our Board of Directors by the Aurora Entities and two of our directors, Messrs. Serota and Rahemtulla, were appointed to our Board of Directors by Ares. Pursuant to the terms of Douglas Holdings' current certificate of incorporation, Aurora Equity Partners II L.P., as the sole holder of the one outstanding share of Series B preferred stock, is entitled to elect four directors to Douglas Holdings' Board of Directors and Ares, as the sole holder of the one outstanding share of Series C preferred stock, is entitled to elect two directors to Douglas Holdings' Board of Directors. These respective rights terminate upon the Aurora Entities (and its affiliates and co-investors) and Ares (and its affiliates) ceasing to beneficially own a certain number of shares of our common stock. These rights will be terminated prior to the consummation of this offering. Our Board of Directors met four times during 2009. Each of Messrs. Wickham & Peiffer qualifies as "independent" under the applicable rules of the New York Stock Exchange.

In accordance with the provisions of our certificate of incorporation and bylaws that we plan to adopt prior to the consummation of this offering, which we refer to in this prospectus as the new certificate of incorporation and the new bylaws, upon consummation of this offering, the terms of office of members of our Board of Directors will be divided into three classes:

- Class I Directors, whose terms will expire at the annual meeting of stockholders to be held in 2011;
- Class II Directors, whose terms will expire at the annual meeting of stockholders to be held in 2012; and
- Class III Directors, whose terms will expire at the annual meeting of stockholders to be held in 2013.

Our Class I Directors will be Messrs. Peiffer and Wickham, our Class II Directors will be Messrs. Marino and Rahemtulla and our Class III Directors will be Messrs. Janik, Rosenbaum and Serota. At each annual meeting of stockholders, the successors to the directors whose terms will then expire will be elected to serve from the time of election and qualification until the third annual meeting following such election. Any vacancies in our classified Board of Directors will be filled by the remaining directors and the elected person will serve the remainder of the term of the class to which he or she is appointed. Any additional directorships resulting from an increase in the number of

directors will be distributed among the three classes so that, as nearly as possible, each class will consist of one-third of the directors. The division of our Board of Directors into three classes with staggered three-year terms may delay or prevent a change of our management or a change of control.

Our Board of Directors has determined that each of Messrs. Wickham and Peiffer qualify as independent under the independence standards of the NYSE. In accordance with the listing standards of the NYSE, within twelve months of the listing of our shares on the NYSE, we plan to appoint at least two independent members to replace two non-independent members so that a majority of our Board of Directors will be independent within the meaning of the listing standards of the NYSE.

Board Leadership Structure

Prior to the consummation of this offering, we plan to appoint Mr. Wickham, one of our non-employee independent directors, as the Chairman of our Board of Directors. Our Board of Directors believes that the separation of the role of Chief Executive Officer and Chairman of our Board of Directors is the most appropriate leadership structure for our Board of Directors at this time. Separating these positions will allow our Chief Executive Officer to focus on our day-to-day operations, while allowing the Chairman of our Board of Directors to lead our Board of Directors in its role of providing independent oversight and advice to management.

Our new bylaws and Corporate Governance Guidelines, however, will provide us with the flexibility to combine these roles in the future, permitting the roles of Chief Executive Officer and Chairman to be filled by the same individual. This will provide our Board of Directors with flexibility to determine whether the two roles should be combined in the future based on the Company's needs and our Board of Directors' assessment of the Company's leadership structure from time to time. Our Corporate Governance Guidelines will also allow for an independent lead director (who may preside over the executive sessions of the non-employee directors) in the event the roles of Chief Executive Officer and Chairman are combined.

Risk Management and Oversight

Our full Board of Directors oversees the Company's risk management process. Our Board oversees a Company-wide approach to risk management, carried out by management. Our full Board determines the appropriate risk for the Company generally, assesses the specific risks faced by the Company and reviews the steps taken by management to manage those risks.

While the full Board maintains the ultimate oversight responsibility for the risk management process, its committees oversee risk in certain specified areas. In particular, our Compensation Committee is responsible for overseeing the management of risks relating to the Company's executive compensation plans and arrangements and the incentives created by the compensation awards it administers. Our Audit Committee oversees management of enterprise risks as well as financial risks and effective upon the consummation of this offering will also be responsible for overseeing potential conflicts of interests. Effective upon the listing of our common stock on the NYSE, our Nominating and Corporate Governance Committee will be responsible for overseeing the management of risks associated with the independence of the Board of Directors. Pursuant to the Board's instruction, management regularly reports on applicable risks to the relevant committee or the full Board, as appropriate, with additional review or reporting on risks conducted as needed or as requested by the Board and its committees.

Code of Ethics

Prior to the consummation of this offering, we will adopt a "code of ethics" as defined by the rules of the SEC under the Securities Exchange Act of 1934, as amended, which we refer to in this prospectus as the Exchange Act, applicable to our principal executive officer, principal financial officer

and principal accounting officer, as well as all of our employees. A copy of this code of ethics, will be available on our website at *www.DouglasDynamics.com*. We intend to post on our website any amendments to, or waivers (with respect to our principal executive officer, principal financial officer and controller) from, this code of ethics within four business days of any such amendment or waiver.

Board Committees

We currently have a standing Audit Committee and Compensation Committee. Prior to the consummation of this offering, our Board of Directors will also establish a Nominating and Corporate Governance Committee. We believe that the composition of these committees will meet the criteria for independence under, and the functioning of these committees will comply with the requirements of, the Sarbanes-Oxley Act of 2002, the rules of the NYSE and the SEC rules and regulations that will become applicable to us upon consummation of this offering. We intend to comply with the requirements of the NYSE with respect to committee composition of independent directors as they become applicable to Douglas Holdings. Summarized below are the responsibilities our Audit Committee and Compensation Committee will have upon consummation of this offering as well as the responsibilities we expect our Nominating and Corporate Governance Committee to have upon its creation.

Audit Committee

Prior to the consummation of this offering, our Board of Directors will adopt a written charter under which our Audit Committee will operate. This charter will set forth the duties and responsibilities of our Audit Committee, which, among other things, will include: the appointment, compensation, retention and oversight of our independent registered public accounting firm; evaluation of our independent registered public accounting firm's qualifications, independence and performance; review and approval of the scope of our annual audit and audit fee; review of our critical accounting policies and estimates; review of the results of our annual audit and our quarterly consolidated financial statements; and oversight of our internal audit function. A copy of our Audit Committee charter will be available on our website at *www.DouglasDynamics.com* prior to the listing of our common stock on the NYSE.

The current members of our Audit Committee are Messrs. Peiffer (Chair), Rahemtulla and Marino. Prior to the consummation of this offering, we plan to appoint Mr. Wickham to our Audit Committee, such that our Audit Committee will be comprised of Messrs. Peiffer (Chair), Rahemtulla, Marino and Wickham. Our Board of Directors has determined that Messrs. Peiffer and Wickham are each independent within the meaning of applicable SEC rules and the listing standards of the NYSE, and has determined that Mr. Peiffer is an audit committee financial expert, as such term is defined in the rules and regulations of the SEC. The Audit Committee met two times during 2009.

In accordance with Rule 10A-3 under the Exchange Act and the listing standards of the NYSE, within 90 days after the effectiveness of the registration statement relating to this offering, we plan to reconstitute the composition of our Audit Committee to remove one of the non-independent members from the committee so that a majority of the members will be independent at that time. Within twelve months after the effectiveness of the registration statement relating to this offering we plan to appoint a new independent member to replace the remaining non-independent member so that all of our Audit Committee members will be independent within the meaning of Rule 10A-3 under the Exchange Act and the listing standards of the NYSE.

Compensation Committee

Prior to the consummation of this offering, our Board of Directors will adopt a written charter under which our Compensation Committee will operate. This charter will set forth the duties and responsibilities of our Compensation Committee, which, among other things, will include: oversight of

our overall compensation structure, policies and programs; review and approval of the compensation programs applicable to our executive officers; determination of the compensation of our directors; administering, reviewing and making recommendations with respect to our equity compensation plans; and reviewing succession planning for our executive officers. A copy of our Compensation Committee charter will be available on our website at *www.DouglasDynamics.com* prior to the listing of our common stock on the NYSE.

The current members of our Compensation Committee are Messrs. Wickham (Chair), Rosenbaum and Serota. Prior to the consummation of this offering, we plan to appoint Mr. Peiffer to our Compensation Committee, such that our Compensation Committee will be comprised of Messrs. Wickham (Chair), Rosenbaum, Serota and Peiffer. Our Board of Directors has determined that Messrs. Wickham and Peiffer are each independent under the rules of the NYSE. The Compensation Committee met one time during 2009.

In accordance with the listing standards of the NYSE, within 90 days after the listing of our common shares on the NYSE, we plan to reconstitute the composition of our Compensation Committee to remove one of the non-independent members from the committee so that a majority of the members will be independent at that time. Within twelve months after the listing of our shares on the NYSE we plan to appoint a new independent member to replace the remaining non-independent member so that all of our Compensation Committee members will be independent within the meaning the listing standards of the NYSE.

Nominating and Corporate Governance Committee

Prior to the consummation of this offering, our Board of Directors will adopt a written charter under which our Nominating and Corporate Governance Committee will operate. This charter will set forth the duties and responsibilities of our Nominating and Corporate Governance Committee, which, among other things, will include: recruiting and retaining qualified persons to serve on our Board of Directors, including proposing such individuals to our Board of Directors for nomination for election as directors; evaluating the performance, size and composition of our Board of Directors; establishing procedures for the consideration of Board of Director candidates recommended by the Company's stockholders; assessing the independence of each member of our Board of Directors; and overseeing our compliance activities. A copy of our Nominating and Corporate Governance Committee charter will be available on our website at *www.DouglasDynamics.com* prior to the listing of our common stock on the NYSE.

In addition, prior to the listing of our common stock on the NYSE, we expect to appoint Messrs. Peiffer and Wickham as members of our Nominating and Corporate Governance Committee. Our Board of Directors has determined that Messrs. Peiffer and Wickham are each independent under the rules of the NYSE. Accordingly, our Nominating and Corporate Governance Committee will be comprised solely of independent members within the meaning of the listing standards of the NYSE prior to the listing of our common stock on the NYSE.

Compensation Committee Interlocks and Insider Participation

During 2009, our Compensation Committee consisted of Messrs. Wickham (Chair), Rosenbaum and Serota. None of the foregoing members of our Compensation Committee is an officer or employee of the Company. None of our executive officers currently serves, or in the past year has served, as a member of the board of directors or compensation committee of any entity that has one or more executive officers serving on our Board of Directors or Compensation Committee.

Limitation of Directors' Liability and Indemnification

The Delaware General Corporation Law authorizes corporations to limit or eliminate the personal liability of directors to corporations and their stockholders for monetary damages for breaches of directors' fiduciary duties. Prior to the consummation of this offering, our certificate of incorporation will be amended and restated to include a provision that eliminates the personal liability of directors for monetary damages for actions taken as a director to the fullest extent authorized by the Delaware General Corporation Law.

Prior to the consummation of this offering, our existing bylaws will be amended and restated to provide that we must indemnify our directors and officers to the fullest extent authorized by the Delaware General Corporation Law. We are and will be expressly authorized to carry directors' and officers' insurance providing indemnification for our directors, officers and certain employees for some liabilities. We believe that these indemnification provisions and insurance are useful to attract and retain qualified directors and officers.

The limitation of liability and indemnification provisions that will be included in our new certificate of incorporation and new bylaws may discourage stockholders from bringing a lawsuit against directors for breach of their fiduciary duties. These provisions may also have the effect of reducing the likelihood of derivative litigation against directors and officers, even though such an action, if successful, might otherwise benefit us and our stockholders.

In addition to the indemnification to be provided by our new bylaws, prior to the consummation of this offering, we will enter into agreements to indemnify our directors and executive officers. These agreements, subject to certain exceptions, will require us to, among other things, indemnify these directors and executive officers for certain expenses, including attorney fees, witness fees and expenses, expenses of accountants and other advisors, and the premium, security for and other costs relating to any bond, arising out of that person's services as a director or officer of us or any of our subsidiaries or any other company or enterprise to which the person provides services at our request.

There is currently no pending material litigation or proceeding involving any of our directors, officers or employees for which indemnification is sought.

EXECUTIVE COMPENSATION

Compensation Discussion and Analysis

Objectives of our Compensation Programs

We believe that a skilled, experienced and dedicated senior management team is essential to the future performance of our Company and to building stockholder value. We have sought to establish competitive compensation programs that enable us to attract and retain executive officers with these qualities as well as to motivate management to maximize performance while building stockholder value.

We compensate our named executive officers, who are identified below, through both short term cash programs, including annual salary and an annual incentive plan, and long term incentive programs, reflecting a mix of fixed and variable compensation. Although our compensation program provides for a mix of both short and long term compensation and cash and non-cash compensation, we do not have any specific policy on those allocations. Our compensation philosophy is centered on providing an opportunity for an executive's total annual compensation to exceed what we believe is the general market level of compensation for similar executive roles. Our business is subject to variability of earnings due to year-to-year variations in snowfall. Accordingly, we have designed our compensation program to provide for a competitive annual salary while offering our named executive officers the opportunity to earn a substantial amount of variable compensation based on our profitability. This program aligns named executive officer compensation with our variable earnings model and differentiates us from our competitors when attracting and motivating our executives.

In connection with becoming a public company we expect that certain aspects of our long term compensation program will likely change, primarily in the area of equity compensation. Currently, equity compensation is limited to stock options that have been granted to some, but not all, of our executives. Executives who have not received stock options participate in our Long Term Incentive Plan.

Our named executive officers for 2009 are Mr. Janik, President and Chief Executive Officer; Mr. McCormick, Vice President, Chief Financial Officer, Treasurer and Secretary; Mr. Adamson, Vice President, Sales and Marketing and Mr. Hagelin, Vice President, Operations.

Management's Role in the Compensation-Setting Process

During 2009 and in previous years, our Compensation Committee's role was limited to determining and approving equity awards and the allocation and payments under our Annual Incentive Plan and Long Term Incentive Plan for all of our named executive officers and reviewing and overseeing risks associated with our compensation policies and practices. Historically, our Chief Executive Officer has set base salaries for our executive officers other than himself, and has recommended performance targets under the Annual Incentive Plan for approval by the Compensation Committee as explained in more detail under the section entitled "Annual Incentive Plan" below. Our Chief Executive Officer also negotiated employment agreements with those executive officers who entered into such agreements, and made recommendations to our Compensation Committee with respect to equity awards for our named executive officers other than himself. All compensation elements for our Chief Executive Officer are reviewed and approved by our Board of Directors (other than Mr. Janik). Upon consummation of this offering, we anticipate that the Compensation Committee will expand its role in reviewing and approving executive compensation in accordance with the duties and responsibilities set forth in the Compensation Committee's charter to be adopted prior to the consummation of this offering. Among other things, it is anticipated that the Compensation Committee will oversee the Company's overall compensation structure, policies and programs; administer and make recommendations to our Board of Directors on equity- and incentive-based compensation plans that require approval from our Board of Directors; review and approve corporate goals and objectives relevant to the compensation of our Chief

Executive Officer and other executive officers and evaluate such officers in light of those goals and objectives; and review and recommend employment agreements and severance and change of control arrangements for our executive officers, and review and oversee risks associated with our compensation policies and practices.

For 2009 and in previous years, we did not engage in a formal benchmarking process or use the services of an independent compensation consultant in developing our compensation programs for our named executive officers. We based compensation levels on the collective experience of the members of our Board of Directors, Compensation Committee and our Chief Executive Officer, their business judgment and their experiences in recruiting and retaining executives.

Elements of Executive Compensation

The key components of our compensation program for our named executive officers are base salary, the Annual Incentive Plan, the 2004 Stock Incentive Plan and the Long Term Incentive Plan, and other compensation consisting primarily of matching 401(k) contributions, the salaried employee pension plan, health and welfare benefits and other perquisites. Each component of our compensation program has an important role in creating compensation payouts that motivate and reward strong performance and in retaining the named executive officers who deliver such performance.

Base Salary

We pay our named executive officers a base salary to compensate them for services rendered and to provide them with a steady source of income for living expenses throughout the year. In general, the base salary of each executive was initially established through arm's-length negotiations at the time the individual was hired, taking into account the individual's qualifications, experience, level of responsibility, as well as internal pay equity considerations.

Our Chief Executive Officer reviews the base salaries of our named executive officers other than himself for potential merit increases once per year based on the performance of the executive and his functional areas of responsibility, overall Company financial performance, and the current year Company merit increase budget. Using these factors, our Chief Executive Officer then uses his subjective determination to set the actual amount of merit increase, if any, for each named executive officer other than himself. Our Chief Executive Officer currently has the authority to, on his own, approve increases in the base salaries of the other named executive officers (up to a maximum of a 5% increase for named executive officers with employment agreements). If a proposed merit increase for a named executive officer with an employment agreement exceeds 5%, the Compensation Committee must approve the increase. For our Chief Executive Officer, the base salary is reviewed by and subject to increase (but not decrease) at the sole discretion of our Board of Directors (other than Mr. Janik) each year.

For 2009, our Chief Executive Officer determined that the other named executive officers would receive 3% merit increases to their base salaries, other than Mr. Hagelin, who received an increase in an absolute dollar amount similar to the other named executive officers' increases in order to keep his compensation in line with the other named executive officers. Since Mr. Hagelin's base salary is substantially lower than the other named executive officer base salaries, his absolute dollar increase resulted in a larger percentage increase as compared to the other named executive officers. Mr. Janik did not receive a salary increase in 2009. In 2008, he received a merit increase of 10.8% in recognition of his outstanding performance in 2007 based on the following subjective criteria determined at the time the increase was approved. First, he effectively managed the business (based on Adjusted EBITDA) through a low snowfall, low sales volume period, and positioned the business to maximize profit when sales volume returned by improving per unit gross margins and focusing on lean manufacturing initiatives. In addition, Mr. Janik assembled a talented management team, both by hiring

new executives in key strategic positions and by causing the existing management team to work cohesively in developing the Company's short- and long-term strategic direction. Due to the size of this increase, the Board of Directors determined at that time that it would not increase Mr. Janik's salary in 2009.

In 2009 the base salaries for our executives were increased as follows due to merit increases:

Executive	Current Salary	Base Salary Merit Increase	% Merit Increase
James Janik	$ 360,006	$ —	0.0%
Robert McCormick	$ 252,346	$ 7,363	3.0%
Mark Adamson	$ 220,938	$ 6,427	3.0%
Keith Hagelin	$ 152,256	$ 7,259	5.0%

Annual Incentive Plan

Our named executive officers, as well as certain other management employees, participate in the Annual Incentive Plan, which we refer to in this prospectus as the AIP, which provides an opportunity to earn a cash bonus upon achievement of certain performance targets approved by the Compensation Committee. These performance objectives are designed to link management's focus with overall Company objectives by providing the executive an opportunity to earn additional short-term compensation. As noted above, we set base salaries at what we believe is the median general market level and emphasize variable compensation to provide an opportunity for total annual compensation for our named executive officers to exceed what we believe to be the general market level of compensation for similar executives in the event of superior performance.

The 2009 performance metrics under the AIP are comprised of two components, operating income and Company shipping performance. These components are weighted 70% and 30%, respectively. Historically, operating income has always been a component under the AIP and has always been weighted 70%. This weighting reflects the Compensation Committee's belief that any incentive compensation should be driven principally by the Company's profitability. Our management is given discretion to determine what performance metric or metrics will comprise the remaining 30% of the annual bonus opportunity. This allows our management to select a metric or metrics that reflect the current focus of our business, which are then submitted by the Chief Executive Officer to the Compensation Committee for approval. Management's decision to use Company shipping performance for 2009 reflects its intent to differentiate the Company from its competitors by having exceptional shipping performance.

Each named executive officer has a target bonus level of 70% of his annual base salary. Prior to 2009, the maximum payout under the operating income metric was capped at 140% (which is reduced to 98% of annual base salary based on its 70% weighting under the AIP). Beginning in 2009, this cap was removed to ensure management is rewarded appropriately for achieving truly outstanding financial performance, but the total payout under the AIP is still subject to an overall cap of 140% of annual base salary for each named executive officer. In other words, even if the named executive officers fail to achieve payout based on perfect ship performance, they may still receive a bonus of up to 140% of annual base salary based on operating income results. See below for a detailed discussion of our performance metrics and the calculation of payouts for 2009.

The operating income metric, as defined in the AIP, measures the degree by which actual operating income performance exceeds or falls short of baseline operating income. Actual operating income is defined as net sales less cost of goods sold and selling, general and administrative expense. Baseline operating income is defined as the historical five year average operating income per snowfall

inch, $13,019 for 2009, multiplied by the aggregate number of snowfall inches during the current year snow season (snowfall measured by the National Oceanic and Atmospheric Administration's National Weather Service for October 1 through March 31 in 66 cities in 26 snowbelt states across the Northeast, East, Midwest and Western United States where the Company monitors snowfall levels). If actual operating income falls below the target, the payout is reduced, on a linear basis, 35% from the target level for each 10% decrease, until it falls below 80% of the target, at which point no bonus is earned. If actual operating income is higher than the target, the payout is increased, on a linear basis, 35% from the target level for each 12.5% increase, with no cap. For 2009 the baseline operating income target was $47.6 million. Actual operating income, as defined in the AIP, totaled $40.4 million. As a result, based on 2009 performance and the 70% weighting, the payout for this component of the annual incentive plan is 11.7% of annual base salary.

The following table sets forth the reconciliation between 2009 actual operating income used for purposes of the AIP, and the operating income reported in our financial statements:

Operating Income per Financial Statements	$ 29.4
Adjustments	
Management Fees	1.4
Intangible Amortization	6.2
Other Non-Recurring Adjustments	
Accelerated Depreciation	0.9
Facility Preparation	0.4
Severance Costs	0.7
Legal & Professional Fees	0.7
Securities Repurchases	0.7
Adjusted Operating Income per AIP	$ 40.4

The following table sets forth the calculation of the 11.7% of base salary payout based on operating income component:

Comparison of Actual to Target Operating Income	
Baseline Operating Income Target	$ 47.6
Adjusted Operating Income per AIP	$ 40.4
Percentage difference (Actual to Target Shortfall)	(15.2)%
Effect on Overall 70% Target Bonus Level	
Payout at Target	70%
Reduction of 70% target level due to 15.2% shortfall (a reduction of 35% for each 10% of shortfall)	(53.3)%
Payout at Actual	16.7%
Effect of Operating Income Weighting	
70% Weighting under AIP	70%
Operating Income Payout	11.7%

The Company's shipping performance or perfect ship metric is defined as the percentage of customer orders shipped 100% complete on or before the requested ship date. For 2009, the target bonus for this component is achieved at 95.0% perfect ship performance. If performance falls below the target, the payout is reduced 35% from the target level for each 2.5% decrease, until it falls below 90.0%, at which point no bonus is earned. If performance is higher than target, the payout is increased 35% from the target level for each 2.5% increase, up to a maximum perfect ship performance of 100.0%. Actual perfect shipment performance for 2009 was 98.2%. Thus the payout for this component of the AIP is 34.5% of annual base salary.

The following table sets forth the calculation of the 34.5% of base salary payout based on perfect ship component:

Comparison of Actual to Target Perfect Ship	
Perfect Ship Target	95%
Actual Perfect Ship	98.2%
Percentage difference (Actual to Target Shortfall)	3.2%
Effect on Overall 70% Target Bonus Level	
Payout at Target	70%
Increase of 70% target level due to 3.2% exceeding of target amount (an increase of 35% for each 2.5% increase)	45.1%
Payout at Actual	115.1%
Effect of Perfect Ship Weighting	
30% Weighting under AIP	30%
Perfect Ship Payout	34.5%

In setting the performance goals under the AIP our intention is to provide for challenging and ambitious targets to further our overall goal of increasing stockholder value. Though challenging, we believe the goals are attainable through a collaborative effort by our named executive officers.

The Compensation Committee has the right to review and approve payouts made under the AIP. Because awards are based on non-discretionary achievement of the applicable performance metrics, the Compensation Committee determined in 2006 that it would rely on a report from management and not exercise its right to review those results prior to bonus payment. The Compensation Committee has the authority to modify, suspend or terminate the AIP at any time.

Long Term Incentive Compensation

2004 Stock Incentive Plan

We introduced the 2004 Stock Incentive Plan, which we refer to in this prospectus as the 2004 Stock Plan, in April 2004 in connection with the Acquisition. The purposes of the 2004 Stock Plan are to attract, motivate and retain key employees, consultants and advisors by providing for or increasing their proprietary interests in the Company. We believe that long term performance is achieved though an ownership culture that rewards and encourages long term performance by our named executive officers though the use of stock-based awards. Currently three of our named executive officers, Messrs. Janik, McCormick and Adamson, have been granted stock options under the 2004 Stock Plan. By design, awards under our 2004 Stock Plan are limited to a very small group of senior executive officers. Our other named executive officer, Mr. Hagelin, was recently promoted to an executive officer role with the Company, and we intend to provide him with equity compensation when he further develops in this role following the consummation of this offering.

The Compensation Committee determines who will receive awards under the 2004 Stock Plan and the terms and conditions of those awards. In determining the size of a stock option grant, the Compensation Committee takes into consideration the individual's potential impact on Company performance, the number of option grants available, and internal pay equity considerations. Although not required, to date all stock option grants have been made in connection with a named executive officer's commencement of employment and the amounts thereof resulted from arms-length negotiations in connection with such commencement of employment, other than the options granted to Mr. Janik, which were granted in connection with the Acquisition and the adoption of the 2004 Stock Plan.

All stock options were granted with an exercise price equal to the fair market value of our stock on the date of grant. Stock options vest over a 5 year period at 20% per year on the anniversary of the

grant date. The Company believes this vesting schedule appropriately encourages long term employment with our Company, while allowing our named executive officers to realize compensation in line with creating stockholder value. Prior to the consummation of this offering, the 2004 Stock Plan will be amended and restated. See "2004 Stock Incentive Plan" below for information on the terms of such amendment and restatement.

Long Term Incentive Plan

Prior to 2004, the Company did not maintain an equity-based compensation program. To entice our key employees to maintain a long term commitment to us, our predecessor-in-interest introduced the Long Term Incentive Plan, which we refer to in this prospectus as the LTIP, in 1992. The LTIP is a cash-based plan. Participants are recommended by the Chief Executive Officer and are subject to review and approval by the Compensation Committee. The Compensation Committee reviews and approves all allocations and payments under the LTIP. Currently, one of our named executive officers, Mr. Hagelin, and a limited number of management employees participate in the LTIP.

The key measurement factor for the LTIP is defined cash flow, which we refer to below as DCF. Because our business is seasonal and our earnings vary from year-to-year, generating cash flow is particularly important to our business. DCF is measured as cash flow from operations before financing costs, management fees, interest and income taxes after normal capital expenditures, as defined by the LTIP.

Under the LTIP, bookkeeping accounts are maintained for each participant tracking the participant's accrued balance under the LTIP. There are two potential sources of input to a participant's account under the LTIP:

1. A seed money amount will be calculated each year equal to 0.5% of DCF from current year operations. There will be no seed amount in any year where DCF is less than $20 million. Seed money will be allocated to a named executive officer's account based upon the ratio of the officer's base salary compared to the total of all participants' base salaries.

2. A growth percentage, depending on the actual DCF for the year, as determined by the following matrix. The growth percentage is applied to the named executive officer's account beginning of the year balance as adjusted for any payouts during the year.

DCF (in millions)	$ 5	$ 10	$ 20	$ 30	$ 40	$ 50	$ 55	$ 60	$65 and above
Growth %	(45)%	(25)%	(10)%	(5)%	5%	15%	20%	25%	30%

For 2009, the Company's DCF was $39 million, which resulted in an allocation of $7,823 and a growth percentage of 4% being applied to Mr. Hagelin's account balance under the LTIP. Vested account balances are generally paid out only in connection with a termination of employment, either in a lump sum or in installments depending on the reason for termination and the amount of the account balance at the time of termination, subject to partial payout during employment if an account balance exceeds two times the participant's base salary. See "—Non-Qualified Deferred Compensation" for additional information regarding the payout of account balances. Concurrent with the implementation of the 2004 Stock Plan, the LTIP balances of certain employees, including Mr. Janik, were converted into an aggregate of 174,230 deferred stock units, each of which currently represents the right to receive one share of our common stock, pursuant to the terms of the deferred stock unit agreements between such employees and us.

Other Compensation

In addition to their base salaries and awards under incentive plans described above, our named executive officers receive matching contributions under our 401(k) plan in the same manner as all of our employees who participate in the plan. We match 20% of a participant's pre-tax contributions up to the first 5% of such participant's base salary up to the maximum allowed by the plan. Additionally, as with all other salaried employees, the named executive officers are eligible to participate in the Douglas Dynamics, L.L.C. Salaried Pension Plan, which is described in more detail below.

Each named executive officer is also eligible to participate in all other benefit plans and programs that are or may be available to our other executive employees, including any health insurance or health care plan, disability insurance, vacation and sick leave, and other similar plans. The only perquisite our named executive officers receive is a Company-paid annual executive physical which was introduced in 2009.

Exercise of Discretion in Executive Compensation

The Compensation Committee has the discretion to adjust awards under the AIP and LTIP, but has historically not exercised such discretion either to approve payments to named executive officers if a performance goal in a given year is not attained or to reduce payments to named executive officers if a performance goal is met.

Our Board of Directors and Compensation Committee meet as often as required during the year in furtherance of their respective duties, including a review of all Company annual incentive plans and compensation for Mr. Janik.

Severance and Change of Control Arrangements

Three of our named executive officers, Messrs. Janik, McCormick and Adamson, are parties to employment agreements entered into at the time of their initial hire by us. Under each of these employment agreements, the named executive officer is eligible for severance benefits consisting of base salary continuation (ranging from twelve to 24 months), paid COBRA coverage for twelve months and accelerated vesting of a portion of the executive's then outstanding stock options if his employment is terminated by us without cause or if the executive resigns due to a material breach by us. Additionally, Mr. Janik is entitled to receive a pro-rated portion of his annual bonus under the AIP if his employment is terminated for any reason other than a termination by the Company for cause or resignation other than for a Material Breach. Mr. Adamson's severance benefits are also triggered in the event we do not renew the initial term of his employment agreement in August 2010. Mr. Hagelin, who does not have an employment agreement, would be entitled to participate in our customary severance plan if he were terminated without cause, which provides for one week of severance for each year of service and access to COBRA benefits as required by applicable laws. Additionally, he would remain fully vested in his LTIP account.

We compete for executive talent in a highly competitive market in which companies routinely offer similar benefits to named executive officers. We view these benefits as appropriate for the named executive officers who may not be in a position to readily obtain comparable employment within a reasonable period of time.

Additionally, in the event of a change of control (as defined in the option award agreements), all of the unvested options held by Messrs. Janik, McCormick and Adamson would become fully vested. In the case of Mr. Janik, who is our only named executive officer who has been granted deferred stock units, his deferred stock units would also convert into an equivalent number of shares of our common stock.

We also maintain a Liquidity Bonus Plan, which we refer to as the LBP. The LBP provides for cash bonus payments to eligible participants in connection with a change of control (as defined in the LBP). The LBP became effective November 2007 and automatically terminates on the fifth anniversary of its effective date unless a change of control occurs prior to such date. Upon a change of control, a bonus pool equal to $1,000,000 (or such greater amount as may be determined by our Board of Directors) is to be allocated among eligible employees (which includes the named executive officers) in the manner determined by our Board of Directors in its sole discretion and subsequently paid out in accordance with those allocations. Our Board of Directors is required to allocate 100% of the pool to eligible employees.

Certain of our named executive officers, Mr. Janik and Mr. McCormick, have long service records with us and generally have provided the vision and leadership that has built us into the successful enterprise that we are today. We believe that providing these change of control benefits will keep these individuals, as well as the other named executive officers, focused on stockholders interests rather than income security in the event of a potential change of control transaction.

Please refer to the discussion below under "—Potential Payments upon Termination or Change of Control" for a more detailed discussion of our severance and change of control arrangements.

Stock Ownership Guidelines

The are currently no equity ownership requirements or guidelines that any of our named executive officers or other employees must meet or maintain.

Policy Regarding Restatements

We do not currently have a formal policy requiring a fixed course of action with respect to compensation adjustments following later restatements of financial results. Under those circumstances, our Board of Directors or Compensation Committee would evaluate whether compensation adjustments were appropriate based on the facts and circumstances surrounding the restatement.

Tax Deductibility

The Compensation Committee has considered the potential future effects of Section 162(m) of the Internal Revenue Code on the compensation paid to our named executive officers. Section 162(m) places a limit of $1 million on the amount of compensation that a publicly held corporation may deduct in any one year with respect to its chief executive officer and each of the next three most highly compensated executive officers (other than its chief financial officer). In general, certain performance-based compensation approved by stockholders is not subject to this deduction limit. As we are not currently publicly-traded, the Compensation Committee has not previously taken the deductibility limit imposed by Section 162(m) into consideration in making compensation decisions. We expect that following the consummation of this offering, the Compensation Committee will adopt a policy that, where reasonably practicable, we will seek to qualify the variable compensation paid to our named executive officers for an exemption from the deductibility limits of Section 162(m). However, we may authorize compensation payments that do not comply with the exemptions in Section 162(m) when we believe that such payments are appropriate to attract and retain executive talent.

Executive Compensation

Summary Compensation Table for Fiscal Year Ended 2009

Name	Year	Salary	Option Awards(1)	Non-Equity Incentive Plan Comp(2)	Nonqualified Deferred Compensation Earnings(3)	All Other Comp(4)	Total
James Janik	2009	$ 360,006	$ 650,413	$ 166,285	$ 47,077	$ 21,603	$ 1,245,384
Robert McCormick	2009	$ 247,531	$ 82,132	$ 114,333	$ 20,750	$ 21,452	$ 486,198
Mark Adamson	2009	$ 216,735	—	$ 100,109	$ 33,164	$ 3,131	$ 353,139
Keith Hagelin	2009	$ 150,860	—	$ 69,682	$ 28,987	$ 9,518	$ 259,047

(1) No options were granted to Messrs. Janik and McCormick in 2009; instead, we repurchased 79,349 and 10,023 vested options to acquire shares of our common stock from Mr. Janik and Mr. McCormick, respectively, in January 2009. Since the options were not exercised and the shares were not held by executives for six months prior to repurchase, the fair value of the repurchased options is recorded as share based compensation in the consolidated financial statements. See "Certain Relationships and Related Party Transactions—Repurchase Agreements" and Note 16, Redeemable stock and stockholders' equity—Common Stock Repurchase, in the notes to the consolidated financial statements contained elsewhere in this prospectus.

(2) Reflects the actual payout for the 2009 AIP.

(3) For Messrs. Janik, McCormick and Adamson, reflects 2009 change in pension plan value. For Mr. Hagelin, represents 2009 change in both pension plan value of $21,485 and the growth portion of the LTIP of $7,502.

(4) Reflects 401(k) match, seed money for LTIP, cost of executive physicals and forgiveness of accrued interest. See table below.

Name	401(k) Matching Contribution	Executive Physicals	Long Term Incentive Plan Seed Money	Forgiveness of Accrued Interest	Total All Other Compensation
James Janik	$ 2,300	$ 831	N/A	$ 18,472	$ 21,603
Robert McCormick	$ 2,300	$ 831	N/A	$ 18,321	$ 21,452
Mark Adamson	$ 2,300	$ 831	N/A	N/A	$ 3,131
Keith Hagelin	$ 1,695	N/A	$ 7,823	N/A	$ 9,518

Grant of Plan-Based Awards in Year 2009

Name	Estimated Future Payouts Under Non-Equity Incentive Plan Awards(1)			All Other Option Awards: Number of Securities Underlying Options(2)	Exercise or Base Price of Option Awards(2)	Grant Date Fair Value of Option Awards(2)
	Threshold	Target	Maximum			
James Janik	$ 0	$ 252,004	$ 504,008	79,349	$ 4.21	$ 650,413
Robert McCormick	$ 0	$ 173,272	$ 346,543	10,023	$ 4.21	$ 82,132
Mark Adamson	$ 0	$ 151,715	$ 303,429	—	—	—
Keith Hagelin	$ 0	$ 105,602	$ 211,204	—	—	—

(1) Amounts reported above reflect the potential performance based incentive cash payments each executive could earn pursuant to the AIP for 2009 with the following explanations:

- Threshold (0%)—a minimum level of performance is required to begin earning an incentive. Thus, if these minimum thresholds are not met, the payout is $0.
- Target (70% payout)—the performance metrics are established to pay a targeted incentive of 70% of base salary for meeting expected performance levels as determined by the plan.
- Maximum (140% payout)—per the plan documentation, a maximum payout of 140% of base salary has been established.

(2) No options were granted to Messrs. Janik and McCormick in 2009; instead, we repurchased the options included in the table above in January 2009. Since the options were not exercised and the shares were not held by executives for six months prior to repurchase, the fair value of the repurchased options is recorded as share based compensation in the consolidated financial statements. See "Certain Relationships and Related Party Transactions—Repurchase Agreements" and Note 16, Redeemable stock and stockholders' equity—Common Stock Repurchase, in the notes to the consolidated financial statements contained elsewhere in this prospectus.

Narrative Disclosure to Summary Compensation Table for Year Ended December 31, 2009 and Grants of Plan-Based Awards in Year 2009 Table

Certain elements of compensation set forth in the Summary Compensation Table for Year Ended December 31, 2009 and Grants of Plan-Based Awards for Year 2009 Table reflect the terms of employment agreements between us and certain of the named executive officers.

James L. Janik. We are a party to an employment agreement with Mr. Janik entered into on March 30, 2004 in connection with the Acquisition. The agreement had an initial term of three years, after which it remains effective for successive one-year periods until we give or are provided by Mr. Janik with 90 days notice of termination prior to each successive renewal date. The agreement provides for an initial base salary of $270,000 per year, which was increased to $360,000 in 2008, and which is subject to annual increase at the discretion of our Board of Directors. In addition, pursuant to his employment agreement, Mr. Janik is eligible to receive an annual performance bonus of up to 100% of his base salary. As discussed in "—Annual Incentive Plan," beginning in 2009, our Board of Directors provided for an increase in the maximum payouts under the AIP applicable to all participants and thus from 2009 onward Mr. Janik is eligible to receive an annual performance bonus of up to 140% of his base salary.

Robert L. McCormick. We are a party to an employment agreement with Mr. McCormick entered into on September 7, 2004. The agreement had an initial term of three years, after which it remains

effective for successive one-year periods until we give or are provided by Mr. McCormick with 90 days notice of termination prior to each successive renewal date. The agreement provides for an initial base salary of $195,000 per year, which was increased to $252,346 in 2009, and which is subject to annual review and adjustment at the discretion of our Board of Directors. In addition, pursuant to his employment agreement Mr. McCormick is eligible to receive an annual performance bonus of up to 100% of his base salary. As discussed in "—Annual Incentive Plan," beginning in 2009, our Board of Directors provided for an increase in the maximum payouts under the AIP applicable to all participants and thus from 2009 onward Mr. McCormick is eligible to receive an annual performance bonus of up to 140% of his base salary.

Mark Adamson. We are a party to an employment agreement with Mr. Adamson entered into on August 27, 2007. The agreement has an initial term of three years, after which it will remain effective for successive one-year periods until we give or are provided by Mr. Adamson with 90 days notice of termination prior to each successive renewal date. The agreement provides for an initial base salary of $205,000 per year, which was increased to $220,938 in 2009, and which is subject to annual review and adjustment at the discretion of our Board of Directors. In addition, pursuant to his employment agreement, Mr. Adamson is eligible to receive an annual performance bonus of up to 100% of his base salary. As discussed in "—Annual Incentive Plan," beginning in 2009, our Board of Directors provided for an increase in the maximum payouts under the AIP applicable to all participants and thus from 2009 onward Mr. Adamson is eligible to receive an annual performance bonus of up to 140% of his base salary.

Prior to the consummation of this offering, each of these employment agreements will be amended for purposes of complying with Section 409A of the Internal Revenue Code. These amendments provide that it is our intent that the agreements satisfy the requirements of Section 409A and are interpreted consistent with that intent. The amendments further provide that, to the extent required by Section 409A, severance payments that become due under the agreements that are considered deferred compensation at the time of termination of employment will be delayed until the earlier of six months following the applicable executive's termination of employment or the date of the executive's death following termination of employment, at which time all such delayed payments will be paid in lump sum to the executive without interest.

Outstanding Equity Awards at Year End 2009

The following table sets forth for each named executive officer, unexercised options, unvested stock and equity incentive plan awards as of the end of 2009.

	Option Awards(2)				Stock Awards	
Name(1)	Number of Securities Underlying Unexercised Options Exercisable	Number of Securities Underlying Unexercised Options Unexercisable	Option Exercise Price	Option Expiration Date	Number of Shares or Units of Stock That Have Not Vested(4)	Market Value of Shares or Units of Stock That Have Not Vested(5)
James Janik	429,946	—	$ 4.21	3/30/2014	41,871	$ 628,065
Robert McCormick	116,565	—	$ 4.21	9/4/2014	—	—
Mark Adamson	47,500	71,250(3)	$ 4.21	8/27/2017	—	—

(1) Mr. Hagelin does not own any stock options.

(2) These stock options were granted on the date ten years prior to the expiration date and become vested over a five-year period following the grant date with 20% of the shares underlying the option becoming vested on each anniversary of the grant date.

(3) These options vest in full upon a change of control (as defined in the option award agreement).

(4) These deferred stock units vest upon the earlier to occur of a change of control or the later of the closing of a qualified initial public offering or the expiration of the lock-up agreement entered into in connection with the qualified initial public offering. This offering will constitute a qualified initial public offering.

(5) Based on a market value as of December 31, 2009 of $15.00 per share, which is the midpoint of the range set forth on the cover page of this prospectus.

Option Exercises and Stock Vested in Fiscal 2009

	Option Awards	
Name(1)	Number of Shares Acquired on Exercise (#)	Value Realized on Exercise ($)
James Janik	—(2)	$ 650,413
Robert McCormick	—(2)	$ 82,132

(1) Mr. Adamson did not exercise any options nor were any of his options repurchased, during 2009, and Mr. Hagelin does not own any options. None of the named executive officers hold any stock that vested during 2009.

(2) In January 2009, we repurchased 79,349 of Mr. Janik's vested options to acquire shares of our common stock and 10,023 of Mr. McCormick's vested options to acquire shares of our common stock at the aggregate purchase prices set forth in this table, which purchase prices equaled the aggregate fair market value of that number of shares of our common stock at the time of the repurchase less the aggregate exercise price of the repurchased options. See "Certain Relationships and Related Party Transactions—Repurchase Agreements" and Note 16, Redeemable stock and stockholders' equity—Common Stock Repurchase, in the notes to the consolidated financial statements contained elsewhere in this prospectus.

Pension Benefits

The following table sets forth each named executive officer's pension benefits as of the end of 2009.

Name	Plan Name	Number of Years of Credited Service(1)	Present Value of Accumulated Benefit	Payments During Last Fiscal Year
James Janik	Salaried Pension	16.3	$ 320,337	—
Robert McCormick	Salaried Pension	4.3	$ 78,333	—
Mark Adamson	Salaried Pension	1.4	$ 33,164	—
Keith Hagelin	Salaried Pension	13.7	$ 169,512	—

(1) The Salaried Pension Plan does not count the first year of employment as a year of credited service. In addition, the number of years of credited service includes service with Douglas Dynamics Incorporated, the entity that previously operated our business. The additional years of service so recognized are 11 years for Mr. Janik and 8 years for Mr. Hagelin.

We sponsor a defined benefit plan, the Douglas Dynamics, L.L.C. Salaried Pension Plan, in which our named executive officers participate. The accrued benefit under the plan is 1.67% of final average monthly compensation multiplied by years of service (capped at 30 years) less 1.67% of monthly social security benefit multiplied by years of service (capped at 30 years). "Final average monthly compensation" is calculated based on the highest five year consecutive total compensation during the last ten years of employment.

Participants may receive their full benefit upon normal retirement at age 65 or a reduced benefit upon early retirement at age 55 with ten years of service. Reduced benefits are also available after termination with five years of service.

The amounts in the table above reflect the actuarial present value of the named executive officer's benefits under our defined benefit plan and are determined using the interest rate and other assumptions discussed in Note 12 in the notes to the consolidated financial statements for the year ended December 31, 2009 included elsewhere in this prospectus.

Non-Qualified Deferred Compensation

The following table sets forth information regarding contributions, earnings, withdrawals and balances with respect to the LTIP for the year ended 2009.

Name(1)	Executive Contributions in Last FY	Registrant Contributions in Last FY(2)	Aggregate Earnings in Last FY(2)	Aggregate Withdrawals/ Distributions	Aggregate Balance at Last FYE
Keith Hagelin	—	$ 7,823	$ 7,502	—	$ 202,863

(1) Messrs. Janik, McCormick and Adamson do not participate in the LTIP.

(2) Company contributions and aggregate earnings are also reflected in the "Summary Compensation Table."

All amounts allocated to Mr. Hagelin's account are vested except in the event of his voluntary separation or termination for cause. In this case, the last two years will not be considered vested and will be subtracted from his account balance. Vested portions will be paid out in lump sum upon death, long term disability or normal retirement. For all other separations, payouts will be made in five equal annual installments with interest accruing on the unpaid balance at the one year US Treasury rate effective at the beginning of the year, unless the account balance is less than$75,000, in which event it will be paid out in a lump sum. If the total in Mr. Hagelin's account reaches two times his base salary, one-fifth of the account balance will be paid out by February 15th of the following year. See "—Long Term Incentive Compensation—Long Term Incentive Plan" for additional information regarding the LTIP.

Potential Payments upon Termination or Change of Control

The information below describes certain compensation and benefits to which our named executive officers are entitled in the event their employment is terminated under certain circumstances and/or a change of control occurs. See the table at the end of this section for the amount of compensation and benefits that would have become payable under existing plans and contractual arrangements assuming a termination of employment and/or change of control had occurred on December 31, 2009 assuming a market value of our common stock on that date of $15.00, which is the mid-point of the range set forth on the cover page of this prospectus, given the named executive officers' compensation and service levels as of such date. There can be no assurance that an actual triggering event would produce the same or similar results as those estimated if such event occurs on any other date or at any other price, or if any other assumption used to estimate potential payments and benefits is not correct. Due to the number of factors that affect the nature and amount of any potential payments or benefits, any actual payments and benefits may be different. Unless otherwise noted specifically below, a change of control will not be triggered as a result of this offering.

Involuntary Termination Without Cause or Resignation Due to Material Breach

Messrs. Janik, McCormick and Adamson. We are parties to employment agreements with three of the named executive officers (Messrs. Janik, McCormick and Adamson), all of which were entered into prior to December 31, 2009. Under these employment agreements, if we terminate the executive's employment without Cause (as defined below), or if the executive were to terminate his employment due to a Material Breach (as defined below) by us, the executive would be entitled to receive severance benefits consisting of base salary continuation. Under such circumstances, Mr. Janik would be entitled to 24 months of his base salary, and each of Messrs. McCormick and Adamson would be entitled to 12 months of his base salary, in each case paid monthly. Any unvested stock options scheduled to vest at the next applicable vesting date would vest pro-rata according to the number of months the executive was employed during the relevant vesting period. We would also continue each executive's benefits for one year at the executive's election and cost. Additionally, Mr. Janik would also have been entitled to receive a pro-rated portion of his annual performance bonus for the year of termination. Severance payments would generally be subject to the executive's compliance with certain non-competition, non-solicitation and confidentiality covenants (described in more detail below) during the period severance payments are being made.

Under each employment agreement, "Cause" means the occurrence or existence of any of the following with respect to an executive, as determined in good faith by a majority of the disinterested members of our Board of Directors: (a) a material breach by the executive of any of his material obligations under the employment agreement which remains uncured after the lapse of 30 days following the date that we have given the executive written notice thereof; (b) a material breach by the executive of his duty not to engage in any transaction that represents, directly or indirectly, self-dealing with us or any of our respective affiliates which has not been approved by a majority of the disinterested members of our Board of Directors, if in any such case such material breach remains uncured after the lapse of 30 days following the date that we have given the executive written notice thereof; (c) the repeated material breach by the executive of any material duty referred to in clause (a) or (b) above as to which at least two (2) written notices have been given pursuant to such clause (a) or (b); (d) any act of misappropriation, embezzlement, intentional fraud or similar conduct involving us; (e) the conviction or the plea of *nolo contendere* or the equivalent in respect of a felony involving moral turpitude; (f) intentional infliction of any damage of a material nature to any of our property; or (g) the repeated non-prescription abuse of any controlled substance or the repeated abuse of alcohol or any other non-controlled substance which, in any case described in this clause, our Board of Directors reasonably determines renders the executive unfit to serve us as an officer or employee.

Under each employment agreement, the executive has the right to terminate his employment if (a) we fail to perform a material condition or covenant of the employment agreement that remains uncured after an applicable cure period or (b) we repeatedly fail to perform a material condition or covenant of the employment agreement as to which at least two written notices have been given by the executive (each of clause (a) and (b), a "Material Breach"). Additionally, under Mr. Janik's employment agreement, Material Breach also includes the relocation of his principal place of performance to outside the Milwaukee, Wisconsin metropolitan area without his prior written consent.

Each of the employment agreements contains a non-competition provision that prevents the executive officer from working for or investing in our competitors and a non-solicit provision that prevents the executive officer from soliciting our employees, in each case for three years after termination of employment, and a perpetual nondisclosure provision.

Mr. Hagelin. Mr. Hagelin is not a party to an employment agreement. Accordingly, if he were to be terminated without cause, he would be entitled to participate in our general severance plan, which provides for one week of severance per year of service. Additionally, as a participant in the LTIP, he

would remain 100% vested in his account balance (rather than forfeit the last two years of contributions in the event of termination with cause or voluntary resignation).

Termination due to Death, Disability or Retirement

Messrs. Janik, McCormick and Adamson. Under the employment agreements, if the executive's employment terminates due to death, Disability (as defined below) or retirement, the executive would generally not be entitled to severance benefits except as follows. In the event of an executive's death, we would be obligated to continue coverage of such executive's dependents (if any) under all benefit plans and programs for a period of six months at no charge to the dependants. Additionally, under the AIP, in the event of termination due to death or Disability and, in the case of Mr. Janik, his retirement, each executive (or his beneficiaries) would be entitled to receive a pro-rated portion of his annual performance bonus for the year of termination.

Under the employment agreements, "Disability" means a disability that renders the executive unable to perform the essential functions of his position, even with reasonable accommodation, for a period of 60 consecutive days or for 90 days within any 180 day period.

Mr. Hagelin. Mr. Hagelin is not a party to an employment agreement. Accordingly, if his employment were terminated due to death, disability or retirement, he would not be entitled to any severance benefits. As a participant in the LTIP, he would remain 100% vested in his account balance and would receive a lump sum distribution. Additionally, under the AIP, he (or his beneficiaries) would be entitled to receive a pro-rated portion of his annual performance bonus.

Treatment of Vested Stock Options

Under the terms of each employment agreement and option award agreement with Messrs. Janik, McCormick and Adamson, in the event an executive's employment with us terminates for any reason, other than for Cause, he would be entitled to exercise all vested stock options held by him for a period of 180 days after the termination date, except that if Mr. Janik's employment is terminated without Cause, or due to his death, Disability or retirement, or he resigns due to a Material Breach, he has a period of 24 months to exercise all vested stock options held by him.

Change of Control

Messrs. Janik, McCormick and Adamson. Under the terms of each employment agreement and option award agreement with Messrs. Janik, McCormick and Adamson, in the event of a change of control (as defined below), all unvested options held by the executive accelerate and become fully vested. For purposes of the employment agreements and option award agreements, "change of control" means any time, (i) the Aurora Entities, Ares and their respective affiliates shall cease to collectively beneficially own and control at least 51%, on a fully diluted basis, of our outstanding capital stock entitled (without regard to the occurrence of any contingency) to vote for the election of members of our Board of Directors (or similar governing body), unless the Aurora Entities, Ares and their respective affiliates collectively beneficially own and control (a) at least 35%, on a fully diluted basis, of our outstanding capital stock entitled (without regard to the occurrence of any contingency) to vote for the election of members of our Board of Directors (or similar governing body) and (b) on a fully diluted basis, more of our outstanding capital stock entitled (without regard to the occurrence of any contingency) to vote for the election of members of our Board of Directors (or similar governing body) than any other person or "group" (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act); (ii) any person or "group" (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act) other than Aurora, Ares and their respective affiliates collectively shall have obtained the power (whether or not exercised) to elect a majority of our members of our Board of Directors (or similar governing body); (iii) Douglas Holdings shall cease to beneficially own and control 100% on a fully

diluted basis of the economic and voting interests in the limited liability company interests of Douglas Dynamics, L.L.C.; or (iv) the majority of the seats (other than vacant seats) on our Board of Directors (or similar governing body) cease to be occupied by persons who either (a) were members of our Board of Directors on April 12, 2004 or (b) were nominated for election by our Board of Directors, a majority of whom were directors on April 12, 2004 or whose election or nomination for election was previously approved by a majority of such directors.

All Named Executive Officers. In accordance with the LBP, in the event of a change of control (as defined below), a bonus pool of $1 million is to be allocated and distributed to eligible employees (including the named executive officers) in the manner determined by our Board of Directors in its sole discretion. Because the allocation of the bonus pool established by the LBP is not known until a change of control is consummated, it is not known how much each named executive officer would have been entitled to receive if a change of control had occurred on December 31, 2009. Because a change of control will occur as a result of this offering, our Board of Directors has determined to allocate and distribute the bonus pool as follows: $434,000 to Mr. Janik, $255,000 to Mr. McCormick, $50,000 to Mr. Adamson and $50,000 to Mr. Hagelin. The remainder will be allocated to our non-executive employees.

For purposes of the LBP, a "change of control" means any time the Aurora Entities, Ares and their respective affiliates shall cease collectively to have the power to vote or direct the voting of the securities having a majority of the ordinary voting power for the election of our directors unless (i) the Aurora Entities, Ares and their respective affiliates collectively own, beneficially and of record, at least 35% of our common stock (on a fully diluted basis), (ii) the Aurora Entities, Ares and their respective affiliates collectively own, beneficially and of record, an amount of our common stock equal to at least 51% (on a fully diluted basis) of our common stock collectively owned by the Aurora Entities, Ares and their respective affiliates, beneficially and of record, as of the effective date of the LBP, (iii) the Aurora Entities, Ares and their respective affiliates collectively have the power (pursuant to stockholder agreements, proxies or other contractual arrangements) to elect a majority of our Board of Directors and (iv) no "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act), has become, or has obtained the rights (whether by means of warrants, options or otherwise) to become, the "beneficial owners" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of more of our outstanding common stock than so held collectively by the Aurora Entities, Ares and their respective affiliates. The number of shares that would satisfy the condition in clause (ii) above is 6,130,350 shares of our common stock. As a result of this offering, a change of control will occur under the LBP.

Mr. Janik's Deferred Stock Units. Prior to the implementation of the 2004 Stock Plan, Mr. Janik participated in the LTIP. Concurrent with the implementation of the 2004 Stock Plan, Mr. Janik's LTIP balance was converted into 41,871 deferred stock units, each of which currently represents the right to receive one share of our common stock, pursuant to the terms of the deferred stock unit agreement between Mr. Janik and us. In the event of a change of control (as defined in the same manner as in the option award agreements) or, if earlier, the later of the closing of a qualified initial public offering and the expiration of the lock-up agreement entered into in connection with the qualified initial public offering, we will be obligated to issue to Mr. Janik one share of our common stock for each of his deferred stock units and the deferred stock units will be cancelled. This offering will constitute a qualified initial public offering.

The table below sets forth the estimated value of the potential payments to each of the named executive officers, assuming the executive's employment had terminated on December 31, 2009 and/or that a change of control had occurred on that date. These figures are based on the employment agreements in effect on December 31, 2009. The table excludes payouts that would have been made

under the LBP since such payouts would only be known had a change of control occurred on December 31, 2009.

Name	Termination without cause or resignation for material breach	Termination due to death	Termination due to disability	Termination due to retirement	Change of control
James Janik					
Severance	$ 726,532	—	—	—	—
Dependent COBRA Coverage	—	$ 480	—	—	—
AIP Bonus	$ 166,285	$ 166,285	$ 166,285	$ 166,285	—
Deferred Stock Units(5)	—	—	—	—	$ 628,069
Robert McCormick					
Severance	$ 255,606	—	—	—	—
Dependent COBRA Coverage	—	$ 480	—	—	—
AIP Bonus	—	$ 114,333	$ 114,333	—	—
Mark Adamson					
Severance	$ 224,198	—	—	—	—
Dependent COBRA Coverage	—	$ 480	—	—	—
AIP Bonus	—	$ 100,109	$ 100,109	—	—
Option Acceleration(1)(5)	$ 106,861	—	—	—	$ 768,788
Keith Hagelin					
Severance(2)	$ 41,636	—	—	—	—
Dependent COBRA Coverage(3)	—	$ 401	—	—	—
AIP Bonus	—	$ 69,682	$ 69,682	—	—
LTIP	$ 202,863(4)	$ 202,863	$ 202,863	$ 202,863	—

(1) Accelerated vesting of stock options is based on the difference between the estimated fair value of our common stock on December 31, 2009 and the exercise price.

(2) Mr. Hagelin is not a party to an employment agreement; his severance amount is based on our policy of providing one week of salary for each year of service.

(3) Mr. Hagelin is not a party to an employment agreement, but our policy would be to provide his dependents with 6 months COBRA coverage consistent with the other named executive officers.

(4) Reflects amount to be paid to Mr. Hagelin in the event he was terminated without cause. In the event he resigned voluntarily or was terminated with cause, he would have forfeited $40,469 (the amount allocated to his LTIP account balance during 2008 and 2009).

(5) Based on a market value as of December 31, 2009 of $15.00 per share, which is the mid-point of the range set forth on the cover page of this prospectus.

Stock Incentive Plans

2010 Stock Incentive Plan

In connection with this offering we expect to adopt a new 2010 Stock Incentive Plan, which we refer to as the 2010 Stock Plan. The following is a summary of the material terms of the 2010 Stock Plan. This description is not complete. For more information, we refer you to the full text of the 2010 Stock Plan, which will be filed as an exhibit to the registration statement of which this prospectus forms a part.

The 2010 Stock Plan will authorize the grant of "non-qualified" stock options, incentive stock options, stock appreciation rights, or SARs, restricted stock, restricted stock units, or RSU, and

incentive bonuses to employees, officers, non-employee directors and other service providers to us and our subsidiaries. The number of shares of common stock issuable pursuant to all awards granted under the 2010 Stock Plan will not exceed 1,980,000 shares of our common stock. The number of shares issued or reserved pursuant to the 2010 Stock Plan (or pursuant to outstanding awards) is subject to (i) adjustment as a result of dividends, distributions, stock splits or combinations or consolidations of outstanding shares, and (ii) equitable adjustment as a result of recapitalizations, reorganizations, split-up, spin-off, combination, repurchase or exchange of shares, mergers, consolidations, reorganizations or other transactions in which our common stock is changed into or exchanged for a different class of securities, in each case so that no dilution or enlargement of the benefits intended to be made available under the 2010 Stock Plan occurs and without change in the aggregate purchase price for the shares then subject to each award. Shares subject to awards that have been terminated, expired unexercised, forfeited or otherwise not issued under an award and shares subject to awards settled in cash do no count as shares issued under the 2010 Stock Plan. In addition, (i) shares that were subject to a stock-settled SAR and were not issued upon the net settlement or net exercise of such SAR, (ii) shares used to pay the exercise price of a stock option, and (iii) shares delivered to or withheld by us to pay the withholding taxes related to an award do not count as shares issued under the 2010 Stock Plan.

Administration. The 2010 Stock Plan will be administered by the Administrator, which shall be the Compensation Committee. Any power of the Administrator may also be exercised by our Board of Directors, subject to certain exceptions. The Administrator will be authorized and empowered to do all things that it determines to be necessary or appropriate in connection with such administration. As one of its principal powers, the Administrator will have the discretion to determine the individuals to whom awards may be granted under the 2010 Stock Plan, the amount and timing of such awards, the manner in which such awards will vest and the other conditions applicable to awards. In addition, among other things, the Administrator will be authorized to interpret the 2010 Stock Plan, to establish, amend and rescind any rules and regulations relating to the 2010 Stock Plan, to establish and verify the satisfaction of performance criteria applicable to any award, to determine the extent to which adjustments are required under the 2010 Stock Plan, to approve corrections in the documentation or administration of any award, to reduce the exercise price of any Options or SARs, or to exchange such awards, in each case subject to any necessary stockholder approval, to waive or amend the post-termination exercise period provisions applicable to any award and to make any other determinations that it deems necessary or desirable for the administration of the 2010 Stock Plan. The Administrator may also make exceptions to the 2010 Stock Plan and/or accelerate or waive vesting and exercisability conditions in the event it determines in good faith that it is necessary to do so in light of extraordinary circumstances. All decisions, determinations and interpretations by the Administrator, and any rules and regulations under the 2010 Stock Plan and the terms and conditions of or operation of any award, are final and binding on all participants, beneficiaries, heirs, assigns or other persons holding or claiming rights under the 2010 Stock Plan or any award.

Options. The Administrator will determine the exercise price, which will generally not be less than fair market value on the date of grant, and other terms for each option and whether the options are non-qualified stock options or incentive stock options. Incentive stock options may be granted only to employees and are subject to certain other restrictions. To the extent an option intended to be an incentive stock option does not so qualify, it will be treated as a non-qualified option. A participant may exercise an option by written notice and payment of the exercise price in shares, cash or a combination thereof, as determined by the Administrator, including an irrevocable commitment by a broker to pay over such amount from a sale of the shares issuable under an option, the delivery of previously owned shares and withholding of shares deliverable upon exercise.

Stock appreciation rights. The Administrator may grant SARs independent of or in connection with an option. The exercise price per share of a SAR will be an amount determined by the Administrator, which will generally not be less than the fair market value of the date of grant, and the

Administrator will determine the other terms applicable to SARs. Generally, each SAR will entitle a participant upon exercise to an amount equal to:

- the excess of the fair market value on the exercise date of one share of common stock over the exercise price, multiplied by
- the number of shares of common stock covered by the SAR.

Payment will be made in common stock or in cash, or partly in common stock and partly in cash, as determined by the Administrator.

Restricted stock and restricted stock units. The Administrator may award restricted common stock and RSUs. Restricted stock awards consist of shares of common stock that are transferred to the participant subject to restrictions that may result in forfeiture if specified conditions are not satisfied. RSUs result in the transfer of shares of cash or common stock to the participant only after specified conditions are satisfied. The Administrator will determine the restrictions and conditions applicable to each award of restricted stock or RSUs, which may include performance vesting conditions. Unless determined otherwise by the Administrator, each RSU will be equal to one share and will entitle a participant to either the issuance of shares or payment of an amount of cash determined with reference to the value of shares. To the extent determined by the Administrator, restricted stock and RSUs may be satisfied or settled in shares, cash or a combination thereof.

Unless otherwise determined by the Administrator, participants holding shares of restricted stock may exercise full voting rights with respect to those shares during the period of restriction. Participants will have no voting rights with respect to shares underlying RSUs unless and until such shares are reflected as issued and outstanding shares on the Company's stock ledger.

Participants holding shares of restricted stock will be entitled to receive all dividends and other distributions paid with respect to those shares, unless determined otherwise by the Administrator. Shares underlying RSUs will be entitled to dividends or dividend equivalents only to the extent provided by the Administrator.

Incentive bonuses. An incentive bonus is an opportunity for a participant to earn a future payment tied to the level of achievement with respect to one or more performance criteria established for a performance period set by the Administrator. Payment of the amount due under an incentive bonus may be made in cash or in shares, as determined by the Administrator.

Performance criteria. Vesting of awards granted under the 2010 Stock Plan may be subject to the satisfaction of one or more performance goals established by the Administrator. The performance goals may vary from participant to participant, group to group, and period to period.

Transferability. Unless otherwise determined by the Administrator, awards granted under the 2010 Stock Plan will not be transferable other than by will or by the laws of descent and distribution.

Change of control. The Administrator may provide, either at the time an award is granted or thereafter, that a change of control (as defined in the 2010 Stock Plan) that occurs after the offering shall have such effect as specified by the Administrator, or no effect, as the Administrator in its sole discretion may provide.

Suspension or termination of awards. Except as otherwise provided by the Administrator, if an authorized officer of the Company reasonably believes that a participant may have committed any act constituting Cause for termination of employment, or a violation of any non-competition covenant, the authorized officer, Administrator or the Board may suspend the participant's rights to exercise any option, to vest in an award, and/or to receive payment for or receive shares in settlement of an award pending a determination of whether such an act has been committed.

Amendment and termination. Awards will be granted under the 2010 Stock Plan only during the ten years following the effective date of the 2010 Stock Plan. Our Board of Directors will have the authority to amend, alter or discontinue the 2010 Stock Plan in any respect at any time, but no amendment may diminish any of the rights of a participant under any awards previously granted, without his or her consent. In addition, stockholder approval will be required for any amendment that would increase the maximum number of shares available for awards, reduce the price at which options may be granted, change the class of eligible participants, or otherwise when stockholder approval is required by law or under stock exchange listing requirements.

2004 Stock Incentive Plan

Our Board of Directors adopted, and our stockholders subsequently approved, the Douglas Dynamics, Inc. 2004 Stock Incentive Plan, which we refer to as the 2004 Stock Plan. An aggregate of 1,623,194 shares of our common stock may be issued pursuant to awards granted under the 2004 Stock Plan. Following the adoption of the 2010 Stock Plan, we will not issue any further awards under the 2004 Stock Plan.

The 2004 Stock Plan provides for the grant to our executives, directors, consultants, advisors and key employees and employees of Aurora Capital Group and Ares of equity awards. Awards are not restricted to any specified form or structure and may include, without limitation, sales or bonuses of common stock, restricted stock, stock options, reload stock options, stock purchase warrants, other rights to acquire common stock, securities convertible into or redeemable for common stock, stock appreciation rights, phantom stock, dividend equivalents, performance units or performance shares. As of December 31, 2009, options to purchase an aggregate of 819,185 shares of our common stock were outstanding under the 2004 Stock Plan with a weighted average exercise price per share of $4.21. No awards other than stock options have been granted under the terms of the 2004 Stock Plan, and we have no current intentions to issue any additional awards (in the form of stock options or otherwise) under the 2004 Stock Plan.

The 2004 Stock Plan is administered by the Compensation Committee. Options granted under the 2004 Stock Plan are evidenced by stock option agreements containing such provisions as the Compensation Committee deems advisable. All options granted under the 2004 Stock Plan expire not more than 10 years after the date of grant and have an exercise price that is determined by the Compensation Committee, but in no event is less than the fair market value of our common stock on the date of grant. Options issued under the 2004 Stock Plan generally vest ratably over five years (20% on the first, second, third, fourth and fifth anniversaries of the grant date), provided that the participant is then employed by us, but may be subject to certain acceleration provisions, including full acceleration in connection with a change of control. Full payment for shares of common stock purchased on the exercise of an option must be made at the time of such exercise in a manner approved by the Compensation Committee.

If a participant is our employee or consultant and the participant's service is terminated for any reason within two years of commencement of employment or consultancy, as applicable, we may, but are not obligated to, purchase any of the shares of common stock issued under the 2004 Stock Plan then owned by the participant within 60 days after the termination of service. Shares of our common stock acquired under the 2004 Stock Plan may not be transferred by the participant other than pursuant to the laws of descent and distribution or to certain family members or trusts established solely for the benefit thereof, and are generally subject to a right of first refusal in favor of us. These repurchase rights, transfer restrictions and right of first refusal will terminate upon the consummation of this offering.

Our Board of Directors may amend or terminate the 2004 Stock Plan at any time, subject to certain restrictions. Outstanding awards may be amended, however, only with the consent of the holder.

Prior to the consummation of this offering, the 2004 Stock Plan and certain outstanding award agreements will be amended and restated to, among other things, eliminate the ability of the holder to use a promissory note to pay any portion of the exercise price of the options. The amendment and restatement of the 2004 Stock Plan will also provide that any power of the Compensation Committee may also be exercised by our Board of Directors, subject to certain exceptions.

Restricted Stock Grants

Immediately prior to the effectiveness of this registration statement, we plan to grant an aggregate of 239,252 shares of restricted stock under the 2010 Stock Plan to certain of our employees, based on an assumed initial public offering price of $15.00 per share, which is the mid-point of the range set forth on the cover page of this prospectus. Of this amount, Messrs. Janik, McCormick, Adamson and Hagelin will receive 122,018, 62,205, 2,392 and 22,728 shares, respectively, and certain other non-officer employees will receive an aggregate of 29,909 shares. Based on an assumed initial public offering price of $16.00 per share, which is the high point of the range set forth on the cover page of this prospectus, we plan to grant an aggregate of 245,088 shares of restricted stock, and based on an assumed initial public offering price of $14.00 per share, which is the low point of the range set forth on the cover page of this prospectus, we plan to grant an aggregate of 232,583 shares of restricted stock, in each case to the same people and in the same proportions described above.

These shares of restricted stock will vest in five equal annual installments commencing on the date of grant, and will be subject to the other terms and conditions of the 2010 Stock Plan. The shares of restricted stock will be accounted for under FASB ASC Topic 718, resulting in share-based compensation expense equal to the grant date fair value of the underlying restricted stock, which will be recognized over the five year vesting schedule. The value of each share of the underlying restricted stock will be the initial public offering price of our common stock as the restricted stock will be issued immediately prior to the pricing of our common stock sold in this offering.

Compensation of Directors

Only two of our directors, Messrs. Peiffer and Wickham, have received any compensation in connection with their service on our Board of Directors. Each was granted options to purchase 48,973 shares of our common stock under our 2004 Stock Plan in 2005 at an exercise price of $4.21, all of which remain outstanding and exercisable as of December 31, 2009. Although Messrs. Marino, Rahemtulla, Rosenbaum and Serota do not receive any compensation from us in connection with their service on our Board of Directors, see "Certain Relationships and Related Party Transactions—Management Services Agreement" below for a discussion of certain management fees we pay to entities affiliated with Aurora Capital and Ares for services provided to us under our Management Services Agreement. During 2009, none of our directors received any compensation.

PRINCIPAL AND SELLING STOCKHOLDERS

The following table and accompanying footnotes provide information regarding the beneficial ownership of our common stock and voting preferred stock as of April 16, 2010 with respect to:

- each person or group who beneficially owns 5% or more of the outstanding shares of our common stock;
- each member of our Board of Directors and each named executive officer (as listed in the Summary Compensation Table);
- all members of our Board of Directors and executive officers as a group; and
- the selling stockholders.

Beneficial ownership, which is determined in accordance with the rules and regulations of the SEC, means the sole or shared power to vote or direct the voting or dispose or direct the disposition of our common stock. The number of shares of our common stock beneficially owned by a person includes shares of common stock issuable with respect to options or similar convertible securities held by that person that are exercisable or convertible within 60 days.

The number of shares and percentage beneficial ownership of common stock before this offering set forth below is based on 14,421,729 shares of our common stock issued and outstanding as of April 16, 2010 and after giving effect to the 23.75-for-one stock split of our common stock that will occur prior to the consummation of this offering. The number of shares and percentage beneficial ownership of common stock after the consummation of this offering is based on (a) 19,769,539 shares (which includes the 239,252 shares of restricted stock to be granted immediately prior to effectiveness of the registration statement, based on an assumed public offering price of $15.00 per share, which is the mid-point of the range set forth on the cover page of this prospectus) of our common stock to be issued and outstanding immediately after consummation of this offering, assuming the underwriters do not exercise their over-allotment option and (b) 19,827,998 shares (which includes the 239,252 shares of restricted stock to be granted immediately prior to effectiveness of the registration statement, based on an assumed public offering price of $15.00 per share, which is the mid-point of the range set forth on the cover page of this prospectus) of our common stock to be issued and outstanding immediately after consummation of this offering, assuming the underwriters fully exercise their over-allotment option.

Unless otherwise indicated below, the address of each beneficial owner listed in the table is c/o Douglas Dynamics, Inc., 7777 N. 73rd Street, Milwaukee, WI 53223.

Each of the selling stockholders, other than our former managers and those who will be acquiring shares pursuant to the exercise of outstanding stock options immediately prior to the consummation of this offering, acquired their respective shares of our common stock from the Aurora Entities in 2004 following the Acquisition at a price of $4.21 per share. Our former managers acquired their shares of common stock upon exercise of stock options, granted in 2004, at an exercise price of $4.21 per share, from 2006 to 2007. Other than Messrs. Janik, McCormick and Adamson, our selling stockholders who hold stock options were granted those options in 2005. Messrs. Janik and McCormick were granted their stock options in 2004 and Mr. Adamson was granted his stock options in 2007. Each of our outstanding stock options bear an exercise price of $4.21 per share.

The Company does not know of any arrangements, the operation of which may at a subsequent date result in a change of control, other than this offering, which will constitute a change of control under our Liquidity Bonus Plan (see "Executive Compensation—Severance and Change of Control Arrangements").

Except as otherwise indicated in the footnotes to the table, shares are owned directly or indirectly with sole voting and investment power, subject to applicable community property laws.

	Number of Shares of Common Stock Beneficially Owned Prior to this Offering*		Number of Shares of Common Stock Offered		Number of Shares of Common Stock Beneficially Owned Immediately After Consummation of this Offering†			
					Assuming the Underwriters' Over-Allotment Option is Not Exercised		Assuming the Underwriters' Over-Allotment Option is Exercised in Full	
Name and Address of Beneficial Owner	Number of Shares of Common Stock	Percentage of Class	Assuming the Underwriters' Over-Allotment Option is Not Exercised	Assuming the Underwriters' Over-Allotment Option is Exercised in Full	Number of Shares of Common Stock	Percentage of Class	Number of Shares of Common Stock	Percentage of Class
5% Stockholders								
Aurora Entities	(1) 10,399,305(2)	68.65%	2,395,108(33)	3,100,961(33)	(36) 6,821,495(37)	33.75%	(36) 5,771,271(37)	28.58%
Ares Corporate Opportunities Fund, L.P. and Affiliates(3)	4,770,353(4)	33.03%	1,601,660	2,073,682	3,166,773(38)	16.01%	2,694,185(38)	13.58%
General Electric Pension Trust(5)	2,196,875	15.23%	738,492	956,131	1,458,383	7.38%	1,240,744	6.26%
Directors and Named Executive Officers								
James L. Janik	(6) 429,946(7)	2.89%	118,034	152,820	(7) 265,850(39)	1.33%	(7) 217,489(39)	1.08%
Robert L. McCormick	(7) 116,565(8)	**	28,185	36,492	(7) 77,380(40)	**	(7) 65,832(40)	**
Mark Adamson	(7) 47,500(9)	**	28,713	34,166	(7) 7,581(41)	**	—(41)	—
Keith Hagelin	—	—	—	—	—(42)	**	—(42)	—
Jack O. Peiffer	(7) 48,972(10)	**	11,841	15,331	(7) 32,510(43)	**	(7) 27,658(43)	**
Michael W. Wickham	(7) 48,972(11)	**	11,841	15,331	(7) 32,510(44)	**	(7) 27,658(44)	**
Mark Rosenbaum(12)	—	—	—	—	—	—	—	—
Michael Marino(12)	—	—	—	—	—	—	—	—
Nav Rahemtulla(13)	—	—	—	—	—	—	—	—
Jeffrey Serota(13)	—	—	—	—	—	—	—	—
All directors and executive officers as a group (10 persons)	(7) 691,955(14)	4.58%	198,614	254,120	(7) 415,831(45)	2.06%	(7) 338,637(45)	1.68%
Other Selling Stockholders								
Richard K. Roeder(15)	(7) 11,874(16)	**	3,992	5,168	(7) 7,882(46)	**	(7) 6,706(46)	**
Richard R. Crowell(17)	17,812(7)	**	5,988	7,753	11,824(7)	**	10,059(7)	**
Gerald L. Parsky(18)	(7) 10,399,305(19)	68.65%	9,979(34)	12,921(34)	(7) 6,821,495(47)	33.75%	(7) 5,771,271(47)	28.58%
John T. Mapes(20)	(7) 10,399,305(21)	68.65%	3,992(35)	5,168(35)	(7) 6,821,495(48)	33.75%	(7) 5,771,271(48)	28.58%
Robert Anderson, Jr.	(7) 5,936(22)	**	1,716	2,220	(7) 3,940(49)	**	(7) 3,354(49)	**
James Hodgson	(7) 7,124(23)	**	1,834	2,375	(7) 4,730(50)	**	(7) 4,024(50)	**
Dale Frey(24)	(7) 5,937(25)	**	1,435	1,859	(7) 3,942(51)	**	(7) 3,353(51)	**
Lawrence A. Bossidy(26)	(7) 23,749(27)	**	7,423	9,612	(7) 15,766(52)	**	(7) 13,412(52)	**
Douglas Dynamics Equity Partners L.P.(28)	34,675(7)	**	11,656	15,091	23,019(7)	**	19,584(7)	**
James R. Roethle(29)	71,630(7)	**	35,559	46,039	36,071(7)	**	25,591(7)	**
Flemming H. Smitsdorff(30)	58,068(7)	**	29,125	37,708	28,943(7)	**	20,360(7)	**
Raymond S. Littlefield(31)	38,712(7)	**	25,883	33,511	12,829(7)	**	5,201(7)	**
Ralph R. Gould(32)	38,712(7)	**	23,552	30,493	15,160(7)	**	8,219(7)	**
Dale F. Frey Family Limited Partnership	11,875(7)	**	3,992	5,168	7,883(7)	**	6,707(7)	**

* In addition to the number of shares of common stock reflected as beneficially owned in the table above, Aurora Equity Partners II L.P. holds the sole issued and outstanding share of our Series B preferred stock, $.01 par value per share, and Ares holds the sole issued and outstanding share of our Series C preferred stock, $.01 par value per share. Such shares of Series B preferred stock and Series C preferred stock will be redeemed immediately prior to consummation of this offering.

** Denotes ownership of less than 1%.

(1) Includes an aggregate of 7,124,999 shares of common stock held of record by the Aurora Entities (of which 7,031,662 are held of record by Aurora Equity Partners II L.P. and 93,337 are held of record by Aurora Overseas Equity Partners II, L.P.) and 3,274,306 Aurora Voting Shares. The 3,274,306 "Aurora Voting Shares" consist of (i) 1,077,431 shares held of record by certain securityholders (other than General Electric Pension

Trust, which we refer to as GEPT, and Ares) who have granted an irrevocable proxy to the Aurora Entities to vote all of their shares as the Aurora Entities shall determine (includes currently exercisable options to purchase 727,576 shares of common stock held by certain advisors and former advisors to Aurora Capital Group, Messrs. Wickham and Peiffer and members of management of Douglas Dynamics (see footnote (2)), and (ii) 2,196,875 shares held of record held by GEPT, which generally has agreed to vote all of its shares of stock in the same manner as the Aurora Entities vote their shares. The proxy and voting agreement are described more completely under "Certain Relationships and Related Party Transactions—Securityholders Agreement."

Each of the Aurora Entities is controlled by Aurora Advisors II LLC, a Delaware limited liability company, which we refer to in this prospectus as AAII. Messrs. Gerald L. Parsky and John T. Mapes, both of whom are Managing Directors of Aurora Capital Group, jointly control AAII and thus may be deemed to share beneficial ownership of the securities beneficially owned by the Aurora Entities, though the foregoing statement shall not be deemed an admission of their beneficial ownership of such securities. The address of each of the Aurora Entities and of Messrs. Parsky and Mapes is c/o Aurora Capital Group, 10877 Wilshire Boulevard, Suite 2100, Los Angeles, CA 90024.

(2) Includes currently exercisable options to purchase 727,576 shares of common stock. Such options are held by certain advisors and former advisors to Aurora Capital Group, as well as certain members of management of Douglas Dynamics and Messrs. Wickham and Peiffer. The shares issuable upon exercise of these options are subject to the proxies granted to the Aurora Entities described in footnote (1).

(3) Ares is indirectly controlled by Ares Partners Management Company LLC ("APMC"). APMC is managed by an executive committee comprised of Messrs. Michael Arougheti, David Kaplan, Gregory Margolies, Antony Ressler and Bennett Rosenthal. Each of the members of the executive committee expressly disclaims beneficial ownership of the shares of common stock of the Company held by Ares. The address of each of Ares Corporate Opportunities Fund, L.P. and APMC is 2000 Avenue of the Stars, Suite 1200, Los Angeles, California 90067.

(4) Consists of (i) 4,750,000 shares of common stock held of record by Ares and (ii) currently exercisable options to purchase 20,353 shares of common stock held by Ares.

(5) GEPT is an employee benefit plan trust for the benefit of the employees and retirees of General Electric Company and its subsidiaries. GE Asset Management Incorporated is a registered investment adviser and acts as Investment Manager for GEPT. GE Asset Management Incorporated may be deemed to beneficially share ownership of the shares owned by GEPT, but has no pecuniary interest in such shares. GE Asset Management Incorporated has delegated responsibility for exercising voting and dispositive power over the shares of our common stock held by GEPT to three of its officers: Donald W. Torey, President and Chief Investment Officer—Alternative Investments; Patrick J. McNeela, Chief Investment Officer and Senior Managing Director—U.S. Private Equities; and B.C. Sophia Wong, Vice President and Managing Director—Private Equities. These three officers act on a consensus basis in determining how and when to exercise voting and dispositive power with respect to these shares of common stock. Any such exercise requires the consent of at least two of these three persons. GE, Messrs. Torey and McNeela and Ms. Wong expressly disclaim beneficial ownership of all shares owned by GEPT. The address of GEPT is 3001 Summer Street, Stamford, Connecticut 06905. As discussed in footnote (1), pursuant to the Securityholders Agreement, with certain limited exceptions, GEPT has agreed to vote its shares of common stock in the same manner as the Aurora Entities. As a result of the Securityholders Agreement, GEPT may be deemed to be part of a group with the Aurora Entities.

(6) Consists of currently exercisable options to purchase 429,946 shares of common stock. Excludes 41,871.25 deferred stock units which are not convertible into shares of common stock within 60 days of April 16, 2010; however, such deferred stock units will automatically convert into an equivalent number of shares of common stock and become Aurora Voting Shares upon expiration of the lock-up agreement to be entered into by Mr. Janik in connection with this offering.

(7) Constitutes Aurora Voting Shares.

(8) Consists of currently exercisable options to purchase 116,565 shares of common stock.

(9) Consists of currently exercisable options to purchase 47,500 shares of common stock.

(10) Consists of currently exercisable options to purchase 48,972 shares of common stock.

(11) Consists of currently exercisable options to purchase 48,972 shares of common stock.

(12) Associated with the Aurora Entities. Neither Mr. Marino nor Mr. Rosenbaum have beneficial ownership of the shares of common stock owned by the Aurora Entities.

(13) Associated with Ares. Amounts reported do not include shares held by Ares described elsewhere in this table. Both Messrs. Serota and Rahemtulla expressly disclaim beneficial ownership of the shares of common stock owned by Ares.

(14) Consists of currently exercisable options to purchase 691,955 shares of common stock.

(15) Mr. Roeder is a former affiliate of the Aurora Entities, and previously served as a Managing Director of Aurora Capital Group.

(16) Consists of 7,362 shares of common stock owned directly and 4,512 shares of common stock held in an investment retirement account for Mr. Roeder.

(17) Mr. Crowell is a former affiliate of the Aurora Entities, and previously served as a Managing Director of Aurora Capital Group.

(18) As disclosed in footnote (1), Mr. Parsky is a controlling person of the Aurora Entities and thus may be deemed to share beneficial ownership of the shares of common stock beneficially owned by the Aurora Entities. The foregoing statement, however, shall not be deemed an admission of beneficial ownership of such securities by Mr. Parsky.

(19) Includes 29,687 shares of common stock held by an investment retirement account for Mr. Parsky.

(20) As disclosed in footnote (1), Mr. Mapes is a controlling person of the Aurora Entities and thus may be deemed to share beneficial ownership of the shares of common stock beneficially owned by the Aurora Entities. The foregoing statement, however, shall not be deemed an admission of beneficial ownership of such securities by Mr. Mapes.

(21) Includes 11,875 shares of common stock held by an investment retirement account for Mr. Mapes.

(22) Consists of 2,968 shares of common stock and currently exercisable options to purchase 2,968 shares of common stock held in certain trusts for which Mr. Anderson serves as trustee.

(23) Consists of options currently exercisable to purchase 5,937 shares of common stock owned directly by Mr. Hodgson and 1,187 shares of common stock held by the James D. and Maria D. Hodgson Inter Vivos Personal Trust of which Mr. Hodgson, as co-trustee, shares voting and investment power.

(24) Mr. Frey is an advisor to Aurora Capital Group, an affiliate of the Aurora Entities.

(25) Consists of options currently exercisable to purchase 5,937 shares of common stock. Excludes 11,875 shares of common stock held by the Dale F. Frey Family Limited Partnership of which Mr. Frey is a limited partner.

(26) Mr. Bossidy is an advisor to Aurora Capital Group, an affiliate of the Aurora Entities.

(27) Includes options currently exercisable to purchase 5,937 shares of common stock.

(28) The general partner of Douglas Dynamics Equity Partners L.P. is AAII, which is an affiliate of the Aurora Entities.

(29) Mr. Roethle previously served as Senior Vice President of Operations of the Company from 2004 to 2007. Excludes 34,152.5 deferred stock units which are not convertible into shares of common stock within 60 days of April 16, 2010; however, such deferred stock units will automatically convert into an equivalent number of shares of common stock and become Aurora Voting Shares upon expiration of the lock-up agreement to be entered into by Mr. Roethle in connection with this offering.

(30) Mr. Smitsdorff previously served as Vice Present Sales and Marketing of the Company from 2000 to 2007. Excludes 28,571.25 deferred stock units which are not convertible into shares of common stock within 60 days of April 16, 2010; however, such deferred stock units will automatically convert into an equivalent number of shares of common stock and become Aurora Voting Shares upon expiration of the lock-up agreement to be entered into by Mr. Smitsdorff in connection with this offering.

(31) Mr. Littlefield previously served as Vice President of Engineering from 1997 to 2006 and Senior Site Manager, Rockland, of the Company from 1989 to 2006. Excludes 38,285 deferred stock units which are not convertible into shares of common stock within 60 days of April 16, 2010; however, such deferred stock units will automatically convert into an equivalent number of shares of common stock and become Aurora Voting Shares upon expiration of the lock-up agreement to be entered into by Mr. Littlefield in connection with this offering.

(32) Mr. Gould previously served as Vice President of Manufacturing from 1996 to 2006 and Senior Site Manager, Milwaukee of the Company from 2000 to 2006. Excludes 31,350 deferred stock units which are not convertible into shares of common stock within 60 days of April 16, 2010; however, such deferred stock units will automatically convert into an equivalent number of shares of common stock and become Aurora Voting Shares upon expiration of the lock-up agreement to be entered into by Mr. Gould in connection with this offering.

(33) Assuming the underwriters' over-allotment option is not exercised, includes 2,395,108 shares of common stock being offered by the Aurora Entities (of which 2,363,732 are being offered by Aurora Equity Partners II L.P. and 31,376 are being offered by Aurora Overseas Equity Partners II, L.P.). Assuming the underwriters' over-allotment option is exercised in full, includes 3,100,961 shares of common stock being offered by the Aurora Entities (of which 3,060,338 are being offered by Aurora Equity Partners II L.P. and 40,623 are being offered by Aurora Overseas Equity Partners II, L.P.).

(34) Represents shares of common stock being offered by an investment retirement account for Mr. Parsky.

(35) Represents shares of common stock being offered by an investment retirement account for Mr. Mapes.

(36) Assuming the underwriters' over-allotment option is not exercised, includes an aggregate of 4,729,891 shares of common stock held of record by the Aurora Entities (of which 4,667,930 are held of record by Aurora Equity Partners II L.P. and 61,961 are held of record by Aurora Overseas Equity Partners II, L.P.) and 2,091,604 Aurora Voting Shares. The 2,091,604 "Aurora Voting Shares" consist of (i) 633,221 shares held of record by certain securityholders (other than GEPT and Ares) who have granted an irrevocable proxy to the Aurora Entities to vote all of their shares as the Aurora Entities shall determine (includes currently exercisable options to purchase 444,469 shares of common stock held by certain advisors and former advisors to Aurora Capital Group, Messrs. Wickham and Peiffer and members of management of Douglas Dynamics (see footnote (37)), and (ii) 1,458,383 shares held of record held by GEPT, which generally has agreed to vote all of its shares of stock in the same manner as the Aurora Entities vote their shares. The proxy and voting agreement are described more completely under "Certain Relationships and Related Party Transactions—Securityholders Agreement."

Assuming the underwriters' over-allotment option is exercised in full, includes an aggregate of 4,024,038 shares of common stock held of record by the Aurora Entities (of which 3,971,324 are held of record by Aurora Equity Partners II L.P. and 52,714 are held of record by Aurora Overseas Equity Partners II, L.P.) and 1,747,233 Aurora Voting Shares. The 1,747,233 "Aurora Voting Shares" consist of (i) 506,489 shares held of record by certain securityholders (other than GEPT and Ares) who have granted an irrevocable proxy to the Aurora Entities to vote all of their shares as the Aurora Entities shall determine (includes currently exercisable options to purchase 365,215 shares of common stock held by certain advisors and former advisors to Aurora Capital Group, Messrs. Wickham and Peiffer and members of management of Douglas Dynamics (see footnote (37)), and (ii) 1,240,744 shares held of record held by GEPT, which generally has agreed to vote all of its shares of stock in the same manner as the Aurora Entities vote their shares. The proxy and voting agreement are described more completely under "Certain Relationships and Related Party Transactions—Securityholders Agreement."

(37) Assuming the underwriters' over-allotment option is not exercised, includes currently exercisable options to purchase 444,469 shares of common stock. Such options are held by certain advisors and former advisors to Aurora Capital Group, Messrs. Wickham and Peiffer and members of management of Douglas Dynamics. The shares issuable upon exercise of these options are subject to the proxies granted to the Aurora Entities described in footnote (36).

Assuming the underwriters' over-allotment option is exercised in full, includes currently exercisable options to purchase 365,215 shares of common stock. Such options are held by certain advisors to Aurora Capital Group, Messrs. Wickham and Peiffer and certain members of management of Douglas Dynamics. The shares issuable upon exercise of these options are subject to the proxies granted to the Aurora Entities described in footnote (36).

(38) Assuming the underwriters' over-allotment option is not exercised, includes currently exercisable options to purchase 13,512 shares of common stock held by Ares. Assuming the underwriters' over-allotment option is exercised in full, includes currently exercisable options to purchase 11,495 shares of common stock held by Ares. Both amounts are calculated based on the exercise price for the options exercised and sold in this offering being paid through a reduction in the amount of shares otherwise issuable pursuant to such option, in accordance with the terms of the option award. Assuming the over-allotment option is not exercised, this would result in a reduction of 1,920 shares issuable pursuant to such option, and assuming the over-allotment option is exercised in full, this would result in a reduction of 2,486 shares issuable pursuant to such option.

(39) Assuming the underwriters' over-allotment option is not exercised, consists of currently exercisable options to purchase 265,850 shares of common stock. Assuming the underwriters' over-allotment option is exercised in full, consists of currently exercisable options to purchase 217,489 shares of common stock. Both amounts are calculated based on the exercise price for the options exercised and sold in this offering being paid through a reduction in the amount of shares otherwise issuable pursuant to such option, in accordance with the terms of the option award. Assuming the over-allotment option is not exercised, this would result in a reduction of 46,062 shares issuable pursuant to such option, and assuming the over-allotment option is exercised in full, this would result in a reduction of 59,637 shares issuable pursuant to such option. Excludes (i) 41,871.25 deferred stock units which are not convertible into shares of common stock within 60 days of April 16, 2010; however, such deferred stock units will automatically convert into an equivalent number of shares of common stock upon expiration of the lock-up agreement to be entered into by Mr. Janik in connection with this offering and (ii) 122,018 shares of restricted stock to be granted immediately prior to the effectiveness of the registration statement which will not have voting rights until such stock vests and is subject to the transfer restrictions described in "Certain Relationships and Related Party Transactions—Related Party Transactions—Securityholders Agreement—Transfer Restrictions."

(40) Assuming the underwriters' over-allotment option is not exercised, consists of currently exercisable options to purchase 77,380 shares of common stock. Assuming the underwriters' over-allotment option is exercised in full, consists of currently exercisable options to purchase 65,832 shares of common stock. Both amounts are calculated based on the exercise price for the options exercised and sold in this offering being paid through a reduction in the amount of shares otherwise issuable pursuant to such option, in accordance with the terms of the option award. Assuming the over-allotment option is not exercised, this would result in a reduction of 10,999 shares issuable pursuant to such option, and assuming the over-allotment option is exercised in full, this would result in a reduction of 14,240 shares issuable pursuant to such option. Excludes 62,205 shares of restricted stock to be granted immediately prior to the effectiveness of the registration statement which will not have voting rights until such stock vests and is subject to the transfer restrictions described in "Certain Relationships and Related Party Transactions—Related Party Transactions—Securityholders Agreement—Transfer Restrictions."

(41) Assuming the underwriters' over-allotment option is not exercised, consists of currently exercisable options to purchase 7,581 shares of common stock. Assuming the underwriters' over-allotment option is exercised in full, consists of currently exercisable options to purchase 0 shares of common stock. Both amounts are calculated based on the exercise price for the options exercised and sold in this offering being paid through a reduction in the amount of shares otherwise issuable pursuant to such option, in accordance with the terms of the option award. Assuming the over-allotment option is not exercised, this would result in a reduction of 11,205 shares issuable pursuant to such option, and assuming the over-allotment option is exercised in full, this would result in a reduction of 13,333 shares issuable pursuant to such option. Excludes 2,392 shares of restricted stock to be granted immediately prior to the effectiveness of the registration statement which will not have voting rights until such stock vests and is subject to the transfer restrictions described in "Certain Relationships and Related Party Transactions—Related Party Transactions—Securityholders Agreement—Transfer Restrictions."

(42) Excludes 22,728 shares of restricted stock to be granted immediately prior to the effectiveness of the registration statement which will not have voting rights until such stock vests and is subject to the transfer restrictions described in "Certain Relationships and Related Party Transactions—Related Party Transactions—Securityholders Agreement—Transfer Restrictions."

(43) Assuming the underwriters' over-allotment option is not exercised, consists of currently exercisable options to purchase 32,510 shares of common stock. Assuming the underwriters' over-allotment option is exercised in full, consists of currently exercisable options to purchase 27,658 shares of common stock. Both amounts are calculated based on the exercise price for the options exercised and sold in this offering being paid through a reduction in the amount of shares otherwise issuable pursuant to such option, in accordance with the terms of the option award. Assuming the over-allotment option is not exercised, this would result in a reduction of 4,620 shares issuable pursuant to such option, and assuming the over-allotment option is exercised in full, this would result in a reduction of 5,982 shares issuable pursuant to such option.

(44) Assuming the underwriters' over-allotment option is not exercised, consists of currently exercisable options to purchase 32,510 shares of common stock. Assuming the underwriters' over-allotment option is exercised in full, consists of currently exercisable options to purchase 27,658 shares of common stock. Both amounts are calculated based on the exercise price for the options exercised and sold in this offering being paid through a reduction in the amount of shares otherwise issuable pursuant to such option, in accordance with the terms of the option award. Assuming the over-allotment option is not exercised, this would result in a reduction of 4,620 shares issuable pursuant to such option, and assuming the over-allotment option is exercised in full, this would result in a reduction of 5,982 shares issuable pursuant to such option.

(45) Assuming the underwriters' over-allotment option is not exercised, consists of currently exercisable options to purchase 415,831 shares of common stock. Assuming the underwriters' over-allotment option is exercised in full, consists of currently exercisable options to purchase 338,637 shares of common stock. Both amounts are calculated based on the exercise price for the options exercised and sold in this offering being paid through a reduction in the amount of shares otherwise issuable pursuant to such options, in accordance with the terms of the applicable option award. Assuming the over-allotment option is not exercised, this would result in a reduction of 77,507 shares issuable pursuant to such options, and assuming the over-allotment option is exercised in full, this would result in a reduction of 99,176 shares issuable pursuant to such options. Excludes 209,343 shares of restricted stock to be granted immediately prior to the effectiveness of the registration statement which will not have voting rights until such stock vests and is subject to the transfer restrictions described in "Certain Relationships and Related Party Transactions—Related Party Transactions—Securityholders Agreement—Transfer Restrictions."

(46) Assuming the underwriters' over-allotment option is not exercised, consists of 4,887 shares of common stock owned directly and 2,995 shares of common stock held in an investment retirement account for Mr. Roeder. Assuming the underwriters' over-allotment option is exercised in full, consists of 4,158 shares of common stock owned directly and 2,548 shares of common stock held in an investment retirement account for Mr. Roeder.

(47) Assuming the underwriters' over-allotment option is not exercised, includes 19,708 shares of common stock held by an investment retirement account for Mr. Parsky. Assuming the underwriters' over-allotment option is exercised in full, includes 16,766 shares of common stock held by an investment retirement account for Mr. Parsky.

(48) Assuming the underwriters' over-allotment option is not exercised, includes 7,883 shares of common stock held by an investment retirement account for Mr. Mapes. Assuming the underwriters' over-allotment option is exercised in full, includes 6,707 shares of common stock held by an investment retirement account for Mr. Mapes.

(49) Assuming the underwriters' over-allotment option is not exercised, consists of 1,970 shares of common stock and currently exercisable options to purchase 1,970 shares of common stock held in certain trusts of which Mr. Anderson serves as trustee. Assuming the underwriters' over-allotment option is exercised in full, consists of 1,676 shares of common stock and currently exercisable options to purchase 1,678 shares of common stock held in certain trusts of which Mr. Anderson serves as trustee. These amounts are calculated based on the exercise price for the options exercised and sold in this offering being paid through a reduction in the amount of shares otherwise issuable pursuant to such options, in accordance with the terms of the applicable option award. Assuming the over-allotment option is not exercised, this would result in a reduction of 280 shares issuable pursuant to such options, and assuming the over-allotment option is exercised in full, this would result in a reduction of 362 shares issuable pursuant to such options.

(50) Assuming the underwriters' over-allotment option is not exercised, consists of options currently exercisable to purchase 3,942 shares of common stock owned directly by Mr. Hodgson and 788 shares of common stock held by the James D. and Maria D. Hodgson Inter Vivos Personal Trust of which Mr. Hodgson, as co-trustee, shares voting and investment power. Assuming the underwriters' over-allotment option is exercised in full, consists of options currently exercisable to purchase 3,353 shares of common stock owned directly by Mr. Hodgson and 671 shares of common stock held by the James D. and Maria D. Hodgson Inter Vivos Personal Trust of which Mr. Hodgson, as co-trustee, shares voting and investment power. Both amounts are calculated based on the exercise price for the options exercised and sold in this offering being paid through a reduction in the amount of shares otherwise issuable pursuant to such option, in accordance with the terms of the option award. Assuming the over-allotment option is not exercised, this would result in a reduction of 560 shares issuable pursuant to such option, and assuming the over-allotment option is exercised in full, this would result in a reduction of 725 shares issuable pursuant to such option.

(51) Assuming the underwriters' over-allotment option is not exercised, consists of options currently exercisable to purchase 3,942 shares of common stock. Assuming the underwriters' over-allotment option is exercised in full, consists of options currently exercisable to purchase 3,353 shares of common stock. Excludes shares of common stock held by the Dale F. Frey Family Limited Partnership of which Mr. Frey is a limited partner. Both amounts are calculated based on the exercise price for the options exercised and sold in this offering being paid through a reduction in the amount of shares otherwise issuable pursuant to such option, in accordance with the terms of the option award. Assuming the over-allotment option is not exercised, this would result in a reduction of 560 shares issuable pursuant to such option, and assuming the over-allotment option is exercised in full, this would result in a reduction of 725 shares issuable pursuant to such option.

(52) Assuming the underwriters' over-allotment option is not exercised, includes options currently exercisable to purchase 3,942 shares of common stock. Assuming the underwriters' over-allotment option is exercised in full, includes options currently exercisable to purchase 3,353 shares of common stock. Both amounts are calculated based on the exercise price for the options exercised and sold in this offering being paid through a reduction in the amount of shares otherwise issuable pursuant to such option, in accordance with the terms of the option award. Assuming the over-allotment option is not exercised, this would result in a reduction of 560 shares issuable pursuant to such option, and assuming the over-allotment option is exercised in full, this would result in a reduction of 725 shares issuable pursuant to such option.

CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS

Related Party Transaction Policy

We do not currently have a formal, written policy or procedure for the review and approval of related party transactions. However, all related party transactions are currently reviewed and approved by a disinterested majority of our Board of Directors.

We will adopt a written related party transaction policy, which will become effective upon our listing on the NYSE. This policy will require the review and approval of all transactions involving us or any of our subsidiaries and a related person in which (i) the aggregate amount involved will or may be expected to exceed $120,000 in any fiscal year and (ii) a related person has or will have a direct or indirect interest (other than solely as a result of being a director or less than 10% beneficial owner of another entity) prior to entering into such transaction. For purposes of the policy, related persons will include our directors, executive officers, 5% or greater stockholders and parties related to the foregoing, such as immediate family members and entities they control. In reviewing such transactions, the policy will require the Audit Committee to consider all of the relevant facts and circumstances available to the Audit Committee, including the extent of the related person's interest in the transaction and whether the relationship should be continued or eliminated. In determining whether to approve a related party transaction, the standard applied by the Audit Committee will be whether the transaction is on terms no less favorable than terms generally available to an unaffiliated third party under the same or similar circumstances and whether or not a particular relationship serves the best interest of the Company and its stockholders. In addition, the policy will delegate to the chair of the Audit Committee the authority to pre-approve or ratify any transaction with a related person in which the aggregate amount involved is expected to be less than $1,000,000.

Related Party Transactions

The following is a description of transactions since January 1, 2007 to which we have been a party, in which the amount involved in the transaction exceeded or will exceed $120,000, and in which any of our directors, executive officers or beneficial holders of more than 5% of our capital stock had or will have a direct or indirect material interest.

Promissory Notes / Pledge and Security Agreements

We are not party to any loan arrangements with our current executive officers or directors. However, under the terms of our management incentive and non-qualified stock option agreements under the 2004 Stock Plan, members of management who received options underlying shares of our common stock could elect to satisfy the exercise price of such options by delivering a full recourse promissory note to us in respect of the aggregate exercise price together with the execution of a pledge and security agreement pledging to us as a security for payment under the promissory note the acquired shares of our common stock. While we plan to eliminate this method of satisfying the exercise price of our stock options prior to the consummation of this offering by amending the 2004 Stock Plan as well as any of our management incentive and non-qualified stock option agreements that include this provision, summarized below is the principal amount of and interest that accrued in 2007, 2008 and 2009 on any such promissory notes delivered by individuals who are, or were, executive officers of the Company at any time in the past three years. The only notes that remain outstanding are those of our former executive officers. The principal amount of and the interest accrued on the promissory notes delivered by Messrs. Janik and McCormick were canceled as described under "—Repurchase Agreements" below.

- Flemming H. Smitsdorff (Former Vice President Sales and Marketing from 2000 to 2007): On August 1, 2006 and August 15, 2007, Mr. Smitsdorff delivered to the Company promissory notes in the principal amounts of $163,000 and $81,500 in respect of his exercise of 38,713 and 19,356

stock options, respectively. The principal amount of and interest accrued on such notes remain outstanding in full as of the date hereof. During each of 2007, 2008 and 2009, interest of $8,150 accrued in respect of the $163,000 principal promissory note and during 2007, 2008 and 2009, interest of $1,552, $4,075 and $4,075 accrued, respectively, in respect of the $81,500 principal promissory note. The promissory notes must be repaid on the earlier of March 30, 2014 or the occurrence of a change of control (as defined in the same manner in the option award agreements). This offering will not constitute a change of control requiring automatic repayment of the promissory notes. Mr. Smitsdorff has voluntarily agreed to apply a portion of the proceeds from the sale of a portion of his shares in this offering towards the repayment of the promissory notes.

- James R. Roethle (Former Senior Vice President of Operations from 2004 to 2007): On August 1, 2006 and August 15, 2007, Mr. Roethle delivered to the Company promissory notes in the principal amounts of $195,600 and $106,000 in respect of his exercise of 46,455 and 25,175 stock options, respectively. The principal amount of and interest accrued on such notes remain outstanding in full as of the date hereof. During each of 2007, 2008 and 2009 interest of $9,780 accrued in respect of the $195,600 principal promissory note and during 2007, 2008 and 2009, interest of $2,018, $5,300 and $5,300 accrued, respectively, in respect of the $106,000 principal promissory note. The promissory notes must be repaid on the earlier of March 30, 2014 or the occurrence of a change of control (as defined in the same manner in the option award agreements). This offering will not constitute a change of control requiring automatic repayment of the promissory notes. Mr. Roethle has voluntarily agreed to apply a portion of the proceeds from the sale of a portion of his shares in this offering towards the repayment of the promissory notes.

- Kenneth Black (Former Vice President of Operations from 2005 to 2008): On August 1, 2006 and August 15, 2007, Mr. Black delivered to the Company promissory notes in the principal amounts of $100,000 and $100,000 in respect of his exercise of 23,750 and 23,750 stock options, respectively. In connection with Mr. Black's termination from the Company in April 2008, the Company exercised its right to repurchase his 47,500 shares of common stock per the terms of his separation agreement at a price per share of $6.57 (for an aggregate price of $312,000) and the principal and interest accrued on his promissory notes were satisfied with the proceeds from the repurchase of shares. During 2007, $5,000 in interest accrued in respect of Mr. Black's August 1, 2006 promissory note and $1,890 in interest accrued in respect of Mr. Black's August 15, 2007 promissory note. From January 1, 2008 through Mr. Black's termination on April 17, 2008, $1,466 in interest accrued on each of his promissory notes.

- James L. Janik: On October 3, 2007, Mr. Janik delivered to the Company a promissory note in the principal amount of $300,000 in respect of his exercise of 71,250 stock options. In connection with the repurchase transactions described below, (i) $292,500 of the principal amount outstanding under Mr. Janik's promissory note as of December 22, 2008 was satisfied from the proceeds of the share repurchase and all interest accrued thereon as of such date was forgiven and (ii) on January 23, 2009 the remaining principal was satisfied and interest accrued on the promissory note was forgiven. See "—Repurchase Agreements." During 2007 and 2008, interest of $3,658 and $14,790, accrued, respectively, on the promissory note. From January 1, 2009 to January 23, 2009, the date of satisfaction of the promissory note, $24 of interest accrued on the promissory note.

- Robert McCormick: On October 3, 2007, Mr. McCormick delivered to the Company a promissory note in the principal amount of $300,000 in respect of his exercise of 71,250 stock options. In connection with the repurchase transactions described below, (i) $170,100 of the principal amount outstanding under Mr. McCormick's promissory note as of December 22, 2008 was satisfied from the proceeds of the share repurchase and all interest accrued thereon as of

such date was forgiven and (ii) on January 23, 2009 the remaining principal amount was satisfied and accrued interest on the promissory note was forgiven. See "—Repurchase Agreements." During 2007 and 2008, interest of $3,658 and $14,639, respectively, accrued on the promissory note. From January 1, 2009 to January 23, 2009, the date of satisfaction of the promissory note, $24 of interest accrued on the promissory note.

Repurchase Agreements

On December 22, 2008 and January 23, 2009, we entered into securities repurchase agreements with each of Messrs. Janik and McCormick. Pursuant to these agreements, we repurchased a portion of our common stock and stock options exercisable for shares of our common stock in exchange for a cash payment and the satisfaction of the principal amount of the promissory notes held by Messrs. Janik and McCormick as described under "—Promissory Notes / Pledge and Security Agreements" above.

Pursuant to the repurchase agreements that we entered into with Mr. Janik, (i) on December 22, 2008, we repurchased 76,594 shares of our common stock in exchange for aggregate consideration of $957,516, comprised of a cash payment to Mr. Janik in the amount of $665,016 and the satisfaction of $292,500 of principal on his promissory note; and (ii) on January 23, 2009, we repurchased 1,781 shares of our common stock and options to purchase an aggregate of 79,349 shares of our common stock at an exercise price of $4.21 per share in exchange for aggregate consideration of $672,513, comprised of a cash payment to Mr. Janik in the amount of $665,013 and the satisfaction of the remaining principal amount of $7,500 on his promissory note. In connection with these repurchase transactions, we also forgave the accrued interest, totaling $18,472, on Mr. Janik's promissory note.

Pursuant to the repurchase agreements that we entered into with Mr. McCormick, (i) on December 22, 2008, we repurchased 40,399 shares of our common stock in exchange for aggregate consideration of $505,034, comprised of a cash payment to Mr. McCormick in the amount of $334,934 and the satisfaction of $170,100 of principal on his promissory note; and (ii) on January 23, 2009, we repurchased 30,851 shares of our common stock and options to purchase an aggregate of 10,023 shares of our common stock at an exercise price per share of $4.21 per share in exchange for aggregate consideration of $464,850, comprised of a cash payment to Mr. McCormick in the amount of $334,950 and the satisfaction of the remaining principal amount of $129,900 on his promissory note. In connection with these repurchase transactions, we also forgave the accrued interest, totaling $18,321, on Mr. McCormick's promissory note.

Each of the repurchase agreements obligates the executive to remit to us certain sums if the executive is terminated by us for cause (as defined in his employment agreement, see "Executive Compensation—Involuntary Termination Without Cause or Resignation Due to Material Breach") or voluntarily terminates his employment with us for any reason other than a material breach (as defined in his employment agreement, see "Executive Compensation—Involuntary Termination Without Cause or Resignation Due to Material Breach") within 36 months following the date of the applicable repurchase agreement. See "Executive Compensation—Employment Agreements." More specifically, Mr. Janik's repurchase agreements require him to remit to us $1,330,029 if his employment so terminates before December 22, 2011 and $665,013 if his employment so terminates between December 22, 2011 and prior to January 23, 2012. Mr. McCormick's repurchase agreements require him to remit to us $669,884 if his employment is so terminated before December 22, 2011 and $334,950 if his employment is so terminated between December 22, 2011 and prior to January 23, 2012.

Securityholders Agreement

The following is a summary description which reflects all of the material terms of the Second Amended and Restated Securityholders Agreement dated June 30, 2004, as amended by that certain

amendment dated as of December 27, 2004, which we refer to in this prospectus as the Securityholders Agreement, among Douglas Holdings, the Aurora Entities, Ares and Douglas Holdings' other stockholders, optionholders and warrantholders, which includes Messrs. McCormick, Janik and Adamson (such other stockholders, optionholders and warrantholders being the "Class A securityholders"). The Securityholders Agreement will survive consummation of this offering. This summary description does not purport to be complete and is subject to and qualified in its entirety by reference to the definitive Securityholders Agreement, a copy of which has been or will be filed with the SEC as an exhibit to the registration statement of which this prospectus forms a part.

Transfer Restrictions. Subject to certain limited exceptions, each of the securityholders party to the Securityholders Agreement has agreed that, without the consent of the Aurora Entities and Ares, it will not transfer any amount of our securities that would exceed the lesser of two times the volume limitations set forth in clauses (i), (ii) or (iii) of Rule 144(e)(1) of the Securities Act, regardless of whether such transfer or such securities are otherwise subject to Rule 144. In addition, concurrent with the consummation of this offering, the Securityholders Agreement will be amended to provide that our management stockholders will not transfer any amount of our securities owned by them except at such time and in proportion with the Aurora Entities. In addition, certain of the securityholders party to the Securityholders Agreement have agreed to enter into a "lock-up" agreement upon the request of the underwriters in connection with this offering. See "Shares Eligible for Future Sale—Lock-up Agreements" and "Underwriting."

Proxy and Voting Arrangements. Each of the Class A securityholders party to the Securityholders Agreement (other than General Electric Pension Trust, which we refer to in this prospectus as GEPT and, for purposes of clarity, not including Ares, which is referred to as a Class C securityholder in the Securityholders Agreement) has granted an irrevocable proxy to the Aurora Entities with respect to all shares of our common stock and preferred stock owned by such Class A securityholder from time to time. With certain limited exceptions, GEPT has agreed to vote all shares of our common stock and preferred stock held by GEPT from time to time in the same manner as the Aurora Entities vote their shares of our common stock and preferred stock. Shares of our common stock and preferred stock are to be released from the proxy and voting agreement when they are no longer owned beneficially or of record by the securityholder party to the Securityholders Agreement or any of his, her or its permitted transferees (as defined therein).

Registration Rights. All securityholders who are parties to the Securityholders Agreement are entitled to certain "piggy-back" registration rights with respect to shares of our common stock in connection with the registration of our equity securities at any time following the consummation of this offering. In addition, at any time after six months following the consummation of this offering, any securityholder that is a holder of 10% or more of the outstanding shares of our common stock shall be entitled to demand the registration of its shares, subject to customary restrictions. We will bear all expenses incident to any such registrations, including the fees and expenses of a single counsel retained by the selling stockholders; however, each selling stockholder will be responsible for the underwriting discounts and commissions and transfer taxes in connection with shares sold by such stockholder. Each selling stockholder and the underwriters through whom shares are sold on behalf of a selling stockholder will be entitled to customary indemnification from us against certain liabilities, including liabilities under the Securities Act.

Information Rights, Board Observer Rights and Consultation. Subject to certain ownership thresholds, Ares and GEPT have the right to (i) receive certain specified quarterly and annual financial information, and, with respect to the annual information only, a report on the annual financial statements by our independent certified public accountants and (ii) the right to send one observer to all meetings of our Board of Directors, subject to customary confidentiality restrictions. We have also agreed to consult with representatives of Ares concerning certain material issues, events or transactions,

including without limitation the preparation of our annual business plan. Ares is entitled to the foregoing information, board observer and consultation rights if it owns less than 1,425,000 shares of our common stock, but not less than 475,000 shares of our common stock. GEPT is entitled to such rights provided it owns at least 219,688 shares of our common stock.

Amendment and Termination. The Securityholders Agreement may be amended at any time pursuant to a written agreement executed by (i) us, (ii) the Aurora Entities (subject to the Aurora Entities and its co-investors owning at least 2,827,271 shares of our common stock), (iii) Ares (subject to Ares and its affiliates owning at least 1,425,000 shares of our common stock), (iv) the holders of a majority in interest of the shares of our common stock and preferred stock who are party to the Securityholders Agreement, voting together as a single class, (v) in the case of an amendment adversely affecting the rights of any particular securityholder party to the Securityholders Agreement, the written agreement of such securityholder and (vi) in the case of an amendment to GEPT's proxy, information rights, board observer rights or liability provision, the written agreement of GEPT. The Securityholders Agreement will terminate on the earlier to occur of (i) June 30, 2014, and (ii) the written approval of (a) us, (b) the Aurora Entities (subject to the Aurora Entities and its co-investors meeting a specified ownership threshold), (c) Ares (subject to Ares and its affiliates meeting a specified ownership threshold), and (d) the holders of a majority in voting interest of our common stock and preferred stock, voting together as a single class (including the Aurora Entities and Ares); provided that in the case of a termination that adversely affects the rights of any particular securityholder party to the Securityholders Agreement, the written agreement of such securityholder is required before such termination will be deemed effective as to such securityholder.

Management Services Agreement

The following is a summary description which reflects all of the material terms of the Amended and Restated Joint Management Services Agreement (which we refer to in its current form in this prospectus as the Management Services Agreement) dated as of April 12, 2004, among us, Aurora Management Partners LLC, a Delaware limited liability company, which we refer to in this prospectus as AMP, and ACOF Management, L.P., a Delaware limited partnership, which we refer to in this prospectus as ACOF. AMP is an affiliate of Aurora Capital Group and ACOF is an affiliate of Ares. In connection with the consummation of this offering, we intend to amend and restate the Management Services Agreement as described under "—Amendment and Restatement" below.

Services. Pursuant to the Management Services Agreement, AMP and ACOF currently provide us with consultation and advice in fields such as financial services, accounting, general business management, acquisitions, dispositions and banking.

Fees and Expenses. In return for such services, AMP and ACOF currently receive a services fee in an aggregate amount equal to $1.25 million per annum, to be paid in advance semi-annually on May 1 and November 1 of each applicable year (each such date being the "payment date"). These fees will be divided between AMP and ACOF in accordance with the respective holdings of shares of our stock by Aurora and Ares on the payment date. During each of 2007, 2008, and 2009, we paid a service fee of $795,454 to AMP and a service fee of $454,546 to ACOF.

In addition to the services fee, AMP and ACOF are currently entitled to receive a transaction fee, to be divided between AMP and ACOF in accordance with their respective holdings of shares of our common stock on the date of the transaction, equal to 2.0% of the first $75 million of the aggregate of any acquisition or disposition consideration (including debt assumed by a purchaser and current assets retained by a seller) and 1.0% of the aggregate acquisition or disposition consideration (including debt assumed by a purchaser and current assets retained by a seller) in excess of $75 million, with respect to (i) any acquisition, (ii) any sale or disposition of any division of us, (iii) any sale or disposition of all or substantially all of our assets, or (iv) any other sale of any of our assets other than in the ordinary

course of business. During 2007, 2008, and 2009, we did not pay any transaction fees to AMP or ACOF.

The Management Services Agreement currently requires us to reimburse AMP and ACOF for all reasonable out-of-pocket costs and expenses incurred in connection with the performance of their obligations under the Management Services Agreement. During 2007, 2008 and 2009, pursuant to this provision we reimbursed (i) AMP $140,061, $117,524 and $140,908, respectively, and (ii) ACOF $0, $1,886 and $2,461, respectively.

In connection with this offering, the fee and expense reimbursement provisions will be amended as described under "—Amendment and Restatement" below.

Indemnification. The Management Services Agreement also provides that the Company will provide AMP, ACOF and their respective partners, members, officers, employees, agents and affiliates and the stockholders, partners, members, affiliates, directors, officers and employees of any of the foregoing with customary indemnification.

Termination. Unless earlier terminated for cause, the Management Services Agreement currently terminates automatically on the earlier to occur of (i) the sale of all of the outstanding capital stock of the Company, (ii) the sale of all or substantially all of the assets of the Company, (iii) the merger of the Company or sale in one or a series of related transactions of the outstanding capital stock of the Company after which the holders of a majority of the voting power of the Company immediately prior to such merger or stock sale do not, immediately after such merger or stock sale, hold a majority of the voting power of the surviving corporation or the Company, as the case may be, (iv) the closing date of an underwritten initial public offering of the shares of our common stock pursuant to a registration statement filed with the SEC, or (v) April 12, 2014. The termination provisions will be amended in connection with this offering as described under "—Amendment and Restatement" below.

Amendment and Restatement. In order to continue to receive from AMP and ACOF the consultation and advisory services described above, in connection with the consummation of this offering, we intend to amend and restate the Management Services Agreement. Pursuant to this amendment and restatement, we plan to extend the term for which AMP and ACOF will provide such services until the earlier of (i) the fifth anniversary of the consummation of this offering, (ii) such time as AMP and ACOF, together with their affiliates, collectively hold less than 5% of our outstanding common stock and (iii) such time as all parties mutually agree in writing, while eliminating all other termination events (other than termination for cause). Additionally, we plan to eliminate the provision pursuant to which we are obligated to pay to AMP and ACOF an annual management fee, as well as the provision in which we are obligated to pay AMP and ACOF a transaction fee in the event of an acquisition or any sale or disposition of us or any of our divisions or any sale of substantially all our assets or similar transactions. In exchange, we will pay to AMP and ACOF an aggregate one-time fee of approximately $5.8 million upon the consummation of this offering, pro rata in accordance with their respective holdings. We also intend to modify the expense reimbursement provisions to include reimbursement for out-of-pocket expenses incurred in connection with SEC and other legally required filings made by each of AMP and ACOF with respect to our securities and certain other expenses. Those of our directors employed by AMP or ACOF will not receive any additional compensation in connection with their provision of services under the Management Services Agreement.

Redemption of Series B Preferred Stock and Series C Preferred Stock

Concurrent with this offering, we will redeem the one share of Series B preferred stock and one share of Series C preferred stock that are currently outstanding and held by Aurora Equity Partners II L.P. and Ares, respectively, each at a price of $1,000 per share.

INTERESTS OF CERTAIN AFFILIATES IN THIS OFFERING

Certain of our officers, directors and other affiliates may stand to benefit as a result of this offering. Certain of our executive officers will exercise stock options and sell the underlying shares of common stock in this offering. Specifically, we anticipate that Messrs. Janik, McCormick and Adamson will sell 118,034, 28,185 and 28,713 shares of our common stock, respectively in this offering, assuming the underwriters' over-allotment option is not exercised. Additionally, these executive officers, together with certain other employees will be entitled to payments under our LBP. In accordance with the LBP, in the event of a change of control (as defined in the plan), a bonus pool of $1 million is to be allocated and distributed to eligible employees, including our officers in the manner determined by our Board of Directors in its sole discretion. Because a change of control will occur as a result of this offering, our Board of Directors has determined to allocate and distribute the bonus pool as follows: $434,000 to Mr. Janik, $255,000 to Mr. McCormick, $50,000 to Mr. Adamson and $50,000 to Mr. Hagelin. The remainder will be allocated to our non-executive employees. See "Principal and Selling Stockholders" and "Executive Compensation—Compensation Discussion and Analysis—Severance and Change of Control Arrangements." Additionally, Mr. Janik, our Chief Executive Officer, holds deferred stock units that will convert into an equivalent number of shares of our common stock upon expiration of the lock-up agreement entered into by him. See "Executive Compensation—Potential Payments upon Termination or Change of Control." Certain of our officers and directors will also receive grants of restricted stock immediately prior to the pricing of our common stock sold in this offering and such persons together with certain other affiliates also own stock options to purchase our common stock. Specifically, Messrs. Janik, McCormick, Adamson and Hagelin will receive 122,018, 62,205, 2,392, and 27,728 shares, respectively, based on an assumed initial public offering price of $15.00 per share, which is the mid-point of the range set forth on the cover page of this prospectus. See "Executive Compensation—Restricted Stock Grants." However, this offering will not accelerate the vesting of such restricted stock or the exercisability of the stock options.

It is anticipated that the Aurora Entities and Ares will sell 2,395,108 and 1,601,660 shares of our common stock, respectively, in this offering, assuming the underwriters' over-allotment option is not exercised. See "Principal and Selling Stockholders." The Company will also redeem the one share of Series B preferred stock and Series C preferred stock held by Aurora Equity Partners II L.P. and Ares, respectively, at a per share price of $1,000 per share. In addition, Aurora Management Partners LLC, an affiliate of the Aurora Entities, together with ACOF Management, L.P., an affiliate of Ares, will receive an aggregate payment of approximately $5.8 million in connection with the amendment and restatement of our Management Services Agreement of which approximately $3.7 million will be paid to Aurora Management Partners LLC and approximately $2.1 million will be paid to ACOF Management, L.P. See "Certain Relationships and Related Party Transactions—Management Services Agreement."

DESCRIPTION OF INDEBTEDNESS

Senior Credit Facilities

This summary highlights the principal terms of our senior credit facilities, as amended, which consist of a $60 million senior secured revolving credit facility, which we refer to in this prospectus as our revolving credit facility, entered into by Douglas LLC, Douglas Finance and Fisher, as borrowers and an $85 million senior secured term loan facility, which we refer to in this prospectus as our term loan facility, entered into by Douglas LLC, as borrower, each on May 21, 2007. Concurrent with this offering we intend to amend our senior credit facilities to allow the contemplated use of proceeds from this offering. In addition, such amendments will, among other things, (a) increase the size of our term loan facility by $40 million, which additional term loans will mature in May 2016 and (b) amend certain of the provisions in our senior credit facilities which govern our ability to pay dividends. Descriptions of our senior credit facilities contained in this prospectus describe the senior credit facilities after giving effect to such amendments. This summary does not purport to be complete and is qualified in its entirety by the provisions of our revolving credit facility and term loan facility, copies of which have been or will be filed with the SEC as exhibits to the registration statement of which this prospectus forms a part.

Availability under Revolving Credit Facility

The amount available for borrowing under our revolving credit facility is based on the calculation of a borrowing base, which is determined as a percentage of the accounts, inventory and cash of the borrowers, subject to certain exceptions, less certain reserves.

Interest and Fees

The interest rates per annum applicable to loans under our senior credit facilities will be, at our option, the base rate or eurodollar rate plus, in each case, an applicable margin. The applicable margin for loans under our revolving credit facility is subject to adjustment based on the average daily borrowing availability under our revolving credit facility measured based on the quarter preceding the relevant measurement date. In addition, we will be required to pay to the lenders under our revolving credit facility a commitment fee in respect of the unused commitments (which commitment fee is subject to adjustment based on the utilization rate of our revolving credit facility), letter of credit fees in respect of outstanding letters of credit, and certain other fees and we will be required to pay to the arranger and agents under our senior credit facilities certain fees. In connection with the amendments to our senior credit facilities, the interest on the existing portion of the our term loan facility will be increased from an interest rate equal to (at our option) either the base rate plus 1.25% or the eurodollar rate plus 2.25% to (at our option) either the base rate (which shall be no less than 3%) plus 3.5% or the eurodollar rate (which shall be no less than 2%) plus 4.5% and the interest for the additional $40 million increase in our term loan facility will be an interest rate equal to (at our option) either the base rate (which shall be no less than 3%) plus 4% or the eurodollar rate (which shall be no less than 2%) plus 5%.

Guarantees and Collateral

Douglas Holdings, Douglas Holdings' existing and future domestic subsidiaries (other than Douglas LLC and, in the case of our revolving credit facility, Douglas Finance and Fisher), and, to the extent no adverse tax consequences result from such guarantee, foreign subsidiaries, jointly and severally guarantee our obligations under our senior credit facilities. Our obligations under our senior credit facilities and those of the guarantors under their guarantees thereof are secured by liens on substantially all of our and the other borrowers and the guarantors real and personal property.

Prepayments

Our revolving credit facility is required to be prepaid to the extent usage of the facility exceeds the lesser of the aggregate commitments and the borrowing base availability. If an event of default or liquidity event (defined as excess availability less than $6 million) occurs and is continuing, then, subject to certain limited cure rights, all proceeds of accounts receivable and other collateral will be applied to reduce obligations under our revolving credit facility. Our term loan facility is, in certain circumstances, required to be prepaid with excess cash flow, proceeds from certain asset sales and debt issuances and insurance and condemnation proceeds, subject to certain reinvestment rights. Voluntary prepayments of loans under our senior credit facilities and voluntary reductions in the unused commitments under our revolving credit facility are permitted in whole or in part, in minimum amounts and subject to certain other conditions.

Maturity

After effecting the discharge of our senior notes, and unless terminated earlier, our revolving credit facility will mature on May 21, 2012. After effecting the discharge of our senior notes, our term loan will amortize in nominal amounts quarterly with the balance payable on May 21, 2013 with respect to the existing term loans and May 2016 with respect to the additional term loans.

Covenants and Other Matters

Our revolving credit facility includes a requirement that, subject to certain exceptions, capital expenditures not exceed $10 million in any calendar year and, during the occurrence of a liquidity event, a monthly minimum fixed charge coverage ratio test of 1.0:1.0. Compliance with the fixed charge coverage ratio is subject to certain cure rights under our revolving credit facility. We have not been subject to a liquidity event since the inception of our revolving credit facility as we have continuously maintained excess availability greater than $6 million and, while future adverse business developments could result in a liquidity event, we do not anticipate the occurrence of a liquidity event under foreseeable circumstances. As of December 31, 2009, we had availability under our revolving credit facility of $60 million. Both our senior credit facilities include certain negative covenants restricting our ability to, among other things and subject to certain exceptions: (a) prepay, redeem or purchase certain debt, pay dividends or repurchase stock or other equity interests; (b) incur liens and engage in sale-leaseback transactions; (c) make loans and other investments; (d) guarantee or incur additional debt; (e) amend or otherwise alter terms of certain debt and material agreements; (f) engage in mergers, acquisitions and other business combinations; (g) sell assets; (h) enter into any agreement prohibiting the creation or assumption of liens on our assets or consensual encumbrances on the ability of our subsidiaries to pay dividends, make loans or transfer assets to us; (i) enter into certain transactions with shareholders and affiliates; and (j) alter the business we conduct. For a more detailed discussion regarding the restrictions on our ability to pay dividends under our senior credit facilities, see "Dividend Policy and Restrictions—Restrictions on Payment of Dividends—Senior Credit Facilities." Our senior credit facilities also limit the activities of Douglas Holdings. Our senior credit facilities also contain certain customary representations and warranties, affirmative covenants and events of default, including change of control and cross-defaults to other debt.

$7^{3}/_{4}$% Senior Notes Due 2012

We currently have $150 million in aggregate principal amount of our senior notes outstanding, which bear interest at a rate of $7^{3}/_{4}$% per annum and mature on January 15, 2012. We will use the proceeds from this offering together with an increase to our term loan facility to redeem our senior notes, including the accrued and unpaid interest thereon and the associated redemption premium for a total of approximately $157.3 million. We also intend to amend our existing credit facilities to permit the redemption of our senior notes. We intend to deliver a notice of redemption promptly following consummation of this offering in accordance with the terms of the indenture governing our senior notes and we anticipate that our senior notes will be redeemed 30 days following consummation of this offering. Upon our deposit with the trustee of our senior notes of a sufficient amount to redeem our outstanding senior notes, including the accrued and unpaid interest thereon and the associated premium, the indenture governing our senior notes will cease to be of any further force or effect.

DESCRIPTION OF CAPITAL STOCK

The following is a description of the material provisions of our capital stock and the other material terms of our certificate of incorporation and bylaws, as they will be in effect as of the consummation of this offering (such bylaws being referred to in this prospectus as our new bylaws and such certificate of incorporation being referred to as our new certificate of incorporation), and certain provisions of Delaware law. This summary does not purport to be complete and is qualified in its entirety by the provisions of our new certificate of incorporation and new bylaws, copies of which have been or will be filed with the SEC as exhibits to the registration statement of which this prospectus forms a part.

Authorized Capital

Upon the consummation of this offering, our authorized capital stock will consist of 200,000,000 shares of common stock, $.01 par value per share and 5,000,000 shares of preferred stock. The one share of Series B preferred stock and one share of Series C preferred stock that are currently outstanding will be redeemed concurrent with the consummation of this offering. Upon consummation of this offering, 1,980,000 shares of common stock will be reserved for issuance under our 2010 Stock Plan. A 23.75-for-one stock split of our common stock will become effective prior to the consummation of this offering. We will issue cash in lieu of fractional shares in connection with this stock split. Unless otherwise specified herein, all share information included in this prospectus has been adjusted to give effect to this stock split.

As of March 25, 2010, there were 14,421,736 shares of common stock outstanding held by 20 stockholders of record.

Common Stock

Voting. Except as otherwise required by Delaware law, at every annual or special meeting of stockholders, every holder of our common stock is entitled to one vote per share; provided, that holders of common stock are not entitled to vote on any amendment to the Certificate of Incorporation that relates solely to the terms of one or more outstanding series of preferred stock, if the holders of such affected series are entitled to vote thereon. There is no cumulative voting in the election of directors.

Dividends Rights. Subject to dividend preferences that may be applicable to any outstanding preferred stock, holders of our common stock are entitled to receive ratably such dividends as may be declared from time to time by our Board of Directors out of funds legally available for that purpose. See "Dividend Policy and Restrictions."

Liquidation and Preemptive Rights. In the event of our liquidation, dissolution or winding up, the holders of our common stock are entitled to share ratably in all assets remaining after payment of liabilities, subject to prior distribution rights of preferred stock, if any, then outstanding. The holders of our common stock have no preemptive or other subscription rights. There are no redemption or sinking fund provisions applicable to our common stock. The outstanding shares of our common stock are, and the shares offered in this offering, when issued and paid for, will be, fully paid and non-assessable.

Listing. We have applied to list our common stock on the NYSE under the symbol "PLOW."

Transfer Agent and Registrar. The transfer agent and registrar for our common stock is Registrar and Transfer Company.

Preferred Stock

Our Board of Directors is authorized to issue not more than an aggregate of 5,000,000 shares of preferred stock in one or more series, without stockholder approval. Our Board of Directors is

authorized to establish, from time to time, the number of shares to be included in each series of preferred stock, and to fix the designation, powers, privileges, preferences, and relative participating, optional or other rights, if any, of the shares of each series of preferred stock, and any of its qualifications, limitations or restrictions. Our board of directors also is able to increase or decrease the number of shares of any series of preferred stock, but not below the number of shares of that series of preferred stock then outstanding, without any further vote or action by the stockholders.

In the future, our Board of Directors may authorize the issuance of preferred stock with voting or conversion rights that could harm the voting power or other rights of the holders of our common stock, or that could decrease the amount of earnings and assets available for distribution to the holders of our common stock. The issuance of our preferred stock, while providing flexibility in connection with possible acquisitions and other corporate purposes, could, among other consequences, have the effect of delaying, deferring or preventing a change in our control and might harm the market price of our common stock and the voting and other rights of the holders of our common stock. We have no current plans to issue any shares of preferred stock.

Anti-takeover Effects of our New Certificate of Incorporation and New Bylaws

Some provisions in our new certificate of incorporation and new bylaws may be deemed to have an anti-takeover effect and may delay, defer, or prevent a tender offer or takeover attempt that a stockholder might deem to be in his or her best interest. The existence of these provisions could limit the price that investors might be willing to pay in the future for shares of our common stock. These provisions include:

Election and Removal of Directors. Our new certificate of incorporation provides for the division of our Board of Directors into three classes of the same or nearly the same number of directors, with staggered three-year terms. In addition, the holders of our outstanding shares of common stock will not be entitled to cumulative voting in connection with the election of our directors. Our directors will also not be subject to removal, except for cause and only by the affirmative vote of at least $66^{2}/_{3}\%$ of the total voting power of our outstanding shares of capital stock entitled to vote generally in the election of directors, voting together as a single class, prior to the expiration of their term. These provisions on the removal of directors could have the effect of making it more difficult for a third party to acquire, or of discouraging a third party from acquiring, control of us.

Stockholder Action; Special Meeting of Stockholders. Our new certificate of incorporation and new bylaws provide that all stockholder actions must be effected at a duly called meeting and may not be taken by written consent in lieu of a meeting. All stockholder action must be properly brought before any stockholder meeting, which requires advance notice pursuant to the provisions of our new bylaws. In addition, special stockholder meetings may only be called by a majority of our Board of Directors. These provisions could have the effect of delaying stockholder actions that are favored by the holders of a majority of our outstanding voting securities until a meeting is called. These provisions could also discourage a potential acquiror from making a tender offer for our common stock, because even if it were able to acquire a majority of our outstanding voting securities, a potential acquiror would only be able to take actions such as electing new directors or approving a business combination or merger at a duly called stockholders' meeting, and not by written consent.

Authorized but Unissued Shares. The authorized but unissued shares of our common stock and preferred stock are available for future issuance without stockholder approval, subject to any limitations imposed by the NYSE. These additional shares may be used for a variety of corporate acquisitions and employee benefit plans and could also be issued in order to deter or prevent an attempt to acquire us. The existence of authorized but unissued and unreserved common stock and preferred stock could make it more difficult or discourage an attempt to obtain control of us by means of a proxy contest, tender offer, merger or otherwise.

Super-Majority Voting. Our new certificate of incorporation requires the affirmative vote of the holders of at least 66 2/3% in voting power of our issued and outstanding stock entitled to vote generally in the election of directors, voting together as a single class, to amend or repeal certain provisions of our new certificate of incorporation including provisions which would eliminate or modify the provisions described above, reduce or eliminate the number of authorized common or preferred shares and all indemnification provisions. Our new bylaws may also be amended or repealed by our Board of Directors or by the affirmative vote of the holders of at least 66 2/3% in voting power of our issued and outstanding stock entitled to vote generally in the election of directors, voting together as a single class.

Delaware Takeover Statute

We are subject to the provisions of Section 203 of the General Corporation Law of the State of Delaware. Subject to certain exceptions, Section 203 of the Delaware General Corporation Law prohibits a Delaware corporation from engaging in any "business combination" with any "interested stockholder" for a period of three years after the date of the transaction in which the person or entity became an interested stockholder. A "business combination" includes certain mergers, asset sales or other transactions resulting in a financial benefit to the interested stockholder. Subject to various exceptions, an "interested stockholder" is a person who, together with his or her affiliates and associates, owns, or within the past three years has owned, 15% or more of our outstanding voting stock. This provision could discourage mergers or other takeover or change in control attempts, including attempts that might result in the payment of a premium over the market price for shares of our common stock.

Limitation of Directors' Liability and Indemnification

The Delaware General Corporation Law authorizes corporations to limit or eliminate the personal liability of directors to corporations and their stockholders for monetary damages for breaches of directors' fiduciary duties. Our new certificate of incorporation will include a provision that eliminates the personal liability of directors for monetary damages for actions taken as a director to the fullest extent authorized by the Delaware General Corporation Law.

Our new bylaws will provide that we must indemnify our directors and officers to the fullest extent authorized by the Delaware General Corporation Law. We will be also expressly authorized to carry directors' and officers' insurance providing indemnification for our directors, officers and certain employees for some liabilities. We believe that these indemnification provisions and insurance are useful to attract and retain qualified directors and officers.

The limitation of liability and indemnification provisions in our new certificate of incorporation and new bylaws may discourage stockholders from bringing a lawsuit against directors for breach of their fiduciary duties. These provisions may also have the effect of reducing the likelihood of derivative litigation against directors and officers, even though such an action, if successful, might otherwise benefit us and our stockholders.

In addition to the indemnification to be provided by our new certificate of incorporation and new bylaws, prior to the consummation of this offering, we will enter into agreements to indemnify our directors and executive officers. These agreements, subject to certain exceptions, will require us to, among other things, indemnify these directors and executive officers for certain expenses, including attorney fees, witness fees and expenses, expenses of accountants and other advisors, and the premium, security for and other costs relating to any bond, arising out of that person's services as a director or officer of us or any of our subsidiaries or any other company or enterprise to which the person provides services at our request. We also intend to obtain a policy of directors' and officers' insurance.

There is currently no pending material litigation or proceeding involving any of our directors, officers or employees for which indemnification is sought.

SHARES ELIGIBLE FOR FUTURE SALE

Prior to the consummation of this offering, there has not been a public market for our common stock. As described below, only a limited number of shares currently outstanding will be available for sale immediately after this offering due to contractual and legal restrictions on resale. Nevertheless, future sales of substantial amounts of our common stock, including shares issued upon exercise of outstanding options, or the possibility of such sales, could cause the prevailing market price of our common stock to fall or impair our ability to raise equity capital in the future.

Upon the consummation of this offering, we will have 19,769,539 shares of common stock outstanding. All of the shares of our common stock sold in the offering will be freely tradable in the public market without restriction or future registration under the Securities Act with the exception of shares held by our affiliates, as that term is defined in Rule 144 under the Securities Act. Shares purchased by our affiliates may not be resold except pursuant to an effective registration statement or an exemption from registration, including the exemption under Rule 144 of the Securities Act described below.

Immediately after the consummation of this offering, 9,769,539 shares of our common stock held by existing stockholders will be restricted securities, as that term is defined in Rule 144 under the Securities Act assuming the underwriters' over-allotment option is not exercised. These restricted securities may be sold into the public market only if the sale is registered or if they qualify for an exemption from registration under Rule 144 or 701 under the Securities Act, which exemptions are summarized below. These restricted securities are also subject to the lock-up agreements described below until 180 days after the date of this prospectus.

Lock-up Agreements

In connection with this offering, certain of our officers, directors, employees and stockholders, who together hold an aggregate of approximately 99.98% of the outstanding shares of our common stock, have agreed, subject to limited exceptions, not to directly or indirectly sell or dispose of any shares of our common stock or any securities convertible into or exchangeable or exercisable for shares of our common stock for a period of 180 days after the date of this prospectus, subject to extension in certain circumstances, without the prior written consent of Credit Suisse Securities (USA) LLC. For additional information, see "Underwriting."

Rule 144

In general, under Rule 144, beginning 90 days after the date of this prospectus, a person who is not our affiliate and has not been our affiliate at any time during the preceding three months will be entitled to sell any shares of our common stock that such person has beneficially owned for at least six months, including the holding period of any prior owner other than one of our affiliates, without regard to volume limitations (which are summarized below). Sales of our common stock by any such person would be subject to the availability of current public information about us if the shares to be sold were beneficially owned by such person for less than one year.

In addition, under Rule 144, a person may sell shares of our common stock acquired from us immediately after the consummation of this offering, without regard to volume limitations or the availability of public information about us, if:

- the person is not our affiliate and has not been our affiliate at any time during the preceding three months; and
- the person has beneficially owned the shares to be sold for at least one year, including the holding period of any prior owner other than one of our affiliates.

Beginning 90 days after the date of this prospectus, our affiliates who have beneficially owned shares of our common stock for at least six months, including the holding period of any prior owner other than one of our affiliates, would be entitled to sell within any three-month period a number of shares that does not exceed the greater of:

- 1% of the number of shares of our common stock then-outstanding, which will equal approximately 197,695 shares immediately after the consummation of this offering; and
- the average weekly trading volume in our common stock on the NYSE during the four calendar weeks preceding the date of filing of a Notice of Proposed Sale of Securities Pursuant to Rule 144 with respect to the sale.

Sales under Rule 144 by our affiliates are also subject to manner of sale provisions and notice requirements and to the availability of current public information about us.

Rule 701

Any of our employees, officers or directors who purchased shares under a written compensatory plan or contract may be entitled to sell them in reliance on Rule 701. Rule 701 permits affiliates to sell their Rule 701 shares under Rule 144 without complying with the holding period requirements of Rule 144. Rule 701 further provides that non-affiliates may sell these shares in reliance on Rule 144 without complying with the holding period, public information, volume limitation or notice provisions of Rule 144. All holders of Rule 701 shares are required to wait until 90 days after the date of this prospectus before selling those shares.

Stock Plans

We plan on filing a registration statement on Form S-8 under the Securities Act covering shares of our common stock reserved for future issuance under our 2010 Stock Plan and may include in such Form S-8 all or a portion of the 1,980,000 shares of our common stock issuable upon exercise of outstanding stock options under our 2004 Stock Plan. We expect to file this registration statement as soon as practicable after the consummation of this offering. However, no resale of these registered shares by anyone subject to a lock-up agreement shall occur until after the 180-day lock-up period.

Registration Rights

All securityholders who are parties to the Securityholders Agreement are entitled to certain "piggy-back" registration rights with respect to shares of our common stock in connection with the registration of Douglas Holdings equity securities at any time following the consummation of this offering. In addition, at any time after six months following consummation of this offering, any securityholder that is a holder of 10% or more of the outstanding shares of common stock shall be entitled to demand the registration of its shares, subject to customary restrictions. Douglas Holdings will bear all expenses incident to any such registrations, including the fees and expenses of a single counsel retained by the selling stockholders; however, each selling stockholder will be responsible for the underwriting discounts and commissions and transfer taxes in connection with shares sold by such stockholder. Each selling stockholder and the underwriters through whom shares are sold on behalf of a selling stockholder will be entitled to customary indemnification from Douglas Holdings against certain liabilities, including liabilities under the Securities Act.

MATERIAL UNITED STATES FEDERAL INCOME TAX CONSEQUENCES

The following is a summary of the material United States federal income tax consequences relating to the purchase, ownership and disposition of shares of our common stock, as of the date hereof. This summary deals only with shares of our common stock that are held as capital assets (generally, property held for investment). This summary does not discuss any state, local or foreign tax consequences and does not discuss all aspects of United States federal income taxation that may be relevant to the purchase, ownership or disposition of our common stock by prospective investors in light of their particular circumstances. In particular, except to the extent discussed below, this summary does not address all of the tax consequences that may be relevant to certain types of investors subject to special treatment under United States federal income tax laws, such as:

- dealers in securities or currencies, brokers, financial institutions, "controlled foreign corporations", "passive foreign investment companies", regulated investment companies, real estate investment trusts, retirement plans, United States expatriates, tax-exempt entities, traders in securities that elect to use a mark-to-market method of accounting for their securities holdings or insurance companies;
- U.S. Holders of shares of our common stock whose "functional currency" is not the U.S. dollar;
- persons holding shares of our common stock as part of a hedging, integrated, constructive sale, or conversion transaction or a straddle;
- entities that are treated as partnerships for United States federal income tax purposes; or
- persons liable for alternative minimum tax consequences.

The discussion below is based upon the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), applicable United States Treasury regulations promulgated thereunder, and rulings and judicial decisions as of the date hereof. Those authorities are subject to different interpretations and may be changed, perhaps retroactively, so as to result in United States federal income tax consequences different from those discussed below.

If a partnership holds shares of our common stock, the tax treatment of a partner in the partnership will generally depend upon the status of the partner and the activities of the partnership. If you are a partner of a partnership holding shares of our common stock, you should consult your tax advisor as to the particular United States federal income tax consequences applicable to you.

If you are considering the purchase of shares of our common stock, you should consult your own tax advisors concerning the United States federal income tax consequences to you and any consequences arising under the laws of any state, local, foreign or other taxing jurisdiction. Each prospective investor should seek advice based on its particular circumstances from an independent tax advisor.

For purposes of this summary, a "U.S. Holder" means a beneficial owner of a share of our common stock that is:

- an individual who is a citizen or resident of the United States;
- a corporation (or any other entity treated as a corporation for United States federal income tax purposes) created or organized in or under the laws of the United States or any state thereof or the District of Columbia;
- an estate the income of which is subject to United States federal income taxation regardless of its source; or
- a trust if (1) it is subject to the primary supervision of a court within the United States and one or more United States persons have the authority to control all substantial decisions of the trust,

or (2) it has a valid election in effect under applicable United States Treasury regulations to be treated as a United States person.

Consequences to U.S. Holders

The following is a summary of the U.S. federal income tax consequences that will apply to a U.S. Holder of shares of our common stock.

Dividend Distributions

If we make a distribution in respect of our stock, the distribution will be treated as a dividend to the extent it is paid from our current or accumulated earnings and profits. If the distribution exceeds current and accumulated earnings and profits, the excess will be treated as a nontaxable return of capital reducing the U.S. Holder's adjusted tax basis in the U.S. Holder's common stock to the extent of the U.S. Holder's adjusted tax basis in that stock. Any remaining excess will be treated as capital gain. The Code provides for special treatment of dividends paid to individual taxpayers prior to 2011. If a U.S. Holder is an individual, dividends received by such holder generally will be subject to a reduced maximum tax rate of 15% through December 31, 2010, after which the rate applicable to dividends is scheduled to return to the tax rate generally applicable to ordinary income. The rate reduction will not apply to dividends received to the extent that the U.S. holder elects to treat dividends as "investment income," which may be offset by investment expense. Furthermore, the rate reduction also will not apply to dividends that are paid to a U.S. Holder unless certain holding period requirements are satisfied. If a U.S. Holder is a U.S. corporation, it will be able to claim the deduction allowed to U.S. corporations in respect of dividends received from other U.S. corporations equal to a portion of any dividends received subject to generally applicable limitations on that deduction. In general, a dividend distribution to a corporate U.S. Holder may qualify for the 70% dividends received deduction if the U.S. Holder owns less than 20% of the voting power and value of our stock.

U.S. Holders should consult their tax advisors regarding the holding period requirements that must be satisfied in order to qualify the dividends-received deduction and the reduced maximum tax rate on dividends.

Sale, Exchange, Redemption or Other Disposition of Stock

A U.S. Holder will generally recognize capital gain or loss on a sale or exchange of our common stock. The U.S. Holder's gain or loss will equal the difference between the amount realized by the U.S. Holder and the U.S. Holder's adjusted tax basis in the stock. The amount realized by the U.S. Holder will include the amount of any cash and the fair market value of any other property received for the stock. Gain or loss recognized by a U.S. Holder on a sale or exchange of stock will be long-term capital gain or loss if the holder held the stock for more than one year. Long-term capital gains of non-corporate taxpayers are taxed at lower rates than those applicable to ordinary income. The deductibility of capital losses is subject to certain limitations.

Information Reporting and Backup Withholding

When required, we or our paying agent will report to the holders of shares of our common stock and the Internal Revenue Service (the "IRS") amounts paid on or with respect to our common stock during each calendar year and the amount of tax, if any, withheld from such payments. A U.S. Holder will be subject to backup withholding on dividends paid on our common stock and proceeds from the sale of our common stock at the applicable rate (which is currently 28%) if the U.S. Holder (a) fails to provide us or our paying agent with a correct taxpayer identification number or certification of exempt status (such as certification of corporate status), (b) has been notified by the IRS that it is subject to backup withholdings as a result of the failure to properly report payments of interest or dividends or,

(c) in certain circumstances, has failed to certify under penalty of perjury that it is not subject to backup withholding. A U.S. Holder may be eligible for an exemption from backup withholding by providing a properly completed IRS Form W-9 to us or our paying agent. Any amounts withheld under the backup withholding rules will generally be allowed as a refund or a credit against a U.S. Holder's United States federal income tax liability provided the required information is properly furnished to the IRS on a timely basis.

Consequences to Non-U.S. Holders

The following is a summary of the U.S. federal income tax consequences that will apply to a Non-U.S. Holder of shares of our common stock (as defined below). The term "Non-U.S. Holder" means a beneficial owner of shares of our common stock that is not a U.S. Holder.

Dividend Distributions

Any dividends paid with respect to the shares of our common stock will generally be subject to withholding tax at a 30% rate or such lower rate as specified by an applicable income tax treaty. However, dividends that are effectively connected with a Non-U.S. Holder's conduct of a trade or business within the United States and, where an applicable tax treaty so provides, are attributable to such Non-U.S. Holder's permanent establishment in the United States, are not subject to the withholding tax, but instead are subject to United States federal income tax on a net income basis at applicable graduated individual or corporate rates. Certain certification and disclosure requirements must be complied with in order for effectively connected income to be exempt from withholding. Any such effectively connected dividends received by a foreign corporation may, under certain circumstances, be subject to an additional branch profits tax at a 30% rate or such lower rate as specified by an applicable income tax treaty.

A Non-U.S. Holder of shares of our common stock who wishes to claim the benefit of an applicable treaty rate is required to satisfy applicable certification and other requirements. If a Non-U.S. Holder is eligible for a reduced rate of United States withholding tax pursuant to an income tax treaty, the holder may obtain a refund or credit of any excess amounts withheld by filing an appropriate claim for such refund or credit with the Internal Revenue Service ("IRS").

Sale, Exchange, Redemption or Other Disposition of Stock

Any gain realized by a Non-U.S. Holder upon the sale, exchange, redemption or other taxable disposition of shares of our common stock generally will not be subject to United States federal income tax unless:

- that gain is effectively connected with such Non-U.S. Holder's conduct of a trade or business in the United States (and, if required by an applicable income tax treaty, is attributable to a United States permanent establishment);
- the Non-U.S. Holder is an individual who is present in the United States for 183 days or more in the taxable year of that disposition, and certain other conditions are met; or
- we are or have been a "United States real property holding corporation" for United States federal income tax purposes at any time within the shorter of the five-year period preceding the date of disposition or the period that such Non-U.S. Holder held shares of our common stock and either (a) our common stock was not regularly traded on an established securities market at any time during the calendar year in which the disposition occurs, or (b) the Non-U.S. Holder owns or owned (actually or constructively) more than five percent of the total fair market value of shares of our common stock at any time during the five-year period preceding the date of

disposition. We are not, and do not anticipate that we will become, a "U.S. real property holding corporation" for United States federal income tax purposes.

An individual Non-U.S. Holder described in the first bullet point above will generally be subject to United States federal income tax on the net gain derived from the sale under regular graduated United States federal income tax rates or such lower rate. An individual Non-U.S. Holder described in the second bullet point above will generally be subject to a flat 30% United States federal income tax on the gain derived from the sale, which may be offset by United States source capital losses. If a Non-U.S. Holder is eligible for the benefits of a tax treaty between the United States and its country of residence, any such gain will be subject to United States federal income tax in the manner specified by the treaty and generally will only be subject to such tax if such gain is attributable to a permanent establishment maintained by the Non-U.S. Holder in the United States and the Non-U.S. Holder claims the benefit of the treaty by properly submitting an IRS Form W-8BEN (or suitable successor or substitute form). A Non-U.S. Holder that is a foreign corporation and is described in the first bullet point above will be subject to tax on gain under regular graduated United States federal income tax rates and, in addition, may be subject to a branch profits tax at a 30% rate or a lower rate if so specified by an applicable income tax treaty.

Information Reporting and Backup Withholding

We must report annually to the IRS the amount of dividends or other distributions we pay to you on shares of our common stock and the amount of tax we withhold on these distributions. Copies of the information returns reporting such distributions and any withholding may also be made available to the tax authorities in the country in which the holder resides under the provisions of an applicable income tax treaty. The United States imposes a backup withholding tax on dividends and certain other types of payments to United States persons. A Non-U.S. Holder will not be subject to backup withholding tax on dividends the holder receives on shares of our common stock if the holder provides proper certification (usually on an IRS Form W-8BEN) of the holder's status as a non-United States person or other exempt status.

Information reporting and backup withholding generally are not required with respect to the amount of any proceeds from the sale of shares of our common stock outside the United States through a foreign office of a foreign broker that does not have certain specified connections to the United States. However, if a Non-U.S. Holder sells shares of our common stock through a United States broker or the United States office of a foreign broker, the broker will be required to report the amount of proceeds paid to the Non-U.S. Holder to the IRS and also backup withhold on that amount unless the Non-U.S. Holder provides appropriate certification (usually on an IRS Form W-8BEN) to the broker of the holder's status as a non-United States person or other exempt status.

Any amounts withheld under the backup withholding rules will generally be allowed as a refund or a credit against a Non-U.S. Holder's United States federal income tax liability provided the required information is properly furnished to the IRS on a timely basis.

New Legislation Relating to Foreign Accounts

Newly enacted legislation may impose withholding taxes on certain types of payments made to "foreign financial institutions" and certain other non-U.S. entities after December 31, 2012. The legislation generally imposes a 30% withholding tax on dividends on, or gross proceeds from the sale or other disposition of, our common stock paid to a foreign financial institution unless the foreign financial institution enters into an agreement with the U.S. Treasury to among other things, undertake to identify accounts held by certain U.S. persons or U.S.-owned foreign entities, annually report certain information about such accounts, and withhold 30% on payments to account holders whose actions prevent it from complying with these reporting and other requirements. In addition, the legislation generally imposes a 30% withholding tax on the same types of payments to a foreign non-financial

entity unless the entity certifies that it does not have any substantial U.S. owners or furnishes identifying information regarding each substantial U.S. owner. Prospective investors should consult their tax advisors regarding this legislation.

New Healthcare Legislation

Under newly enacted legislation, certain U.S. Holders who are individuals, estates or trusts will be required to pay an additional 3.8% tax on, among other things, dividends on and capital gains from the sale or other disposition of stock for taxable years beginning after December 31, 2012. U.S. Holders should consult their tax advisors regarding the effect, if any, of this legislation on their ownership and disposition of our common stock.

UNDERWRITING

Under the terms and subject to the conditions contained in an underwriting agreement dated , 2010, we and the selling stockholders have agreed to sell to the underwriters named below, for whom Credit Suisse Securities (USA) LLC and Oppenheimer & Co. Inc. are acting as representatives, the following respective numbers of shares of our common stock:

Underwriter	Number of Shares
Credit Suisse Securities (USA) LLC	
Oppenheimer & Co. Inc	
Robert W. Baird & Co. Incorporated	
Piper Jaffray & Co.	
Total	

The underwriting agreement provides that the underwriters are obligated to purchase all the shares of our common stock in this offering if any are purchased, other than those shares covered by the over-allotment option described below. The underwriting agreement also provides that if an underwriter defaults the purchase commitments of non-defaulting underwriters may be increased or this offering may be terminated.

The selling stockholders have granted to the underwriters a 30-day option to purchase on a pro rata basis up to an aggregate of 1,500,000 additional outstanding shares at the initial public offering price less the underwriting discounts and commissions. The option may be exercised only to cover any over-allotments of our common stock.

The underwriters propose to offer the shares of our common stock initially at the public offering price on the cover page of this prospectus and to selling group members at that price less a selling concession of $ per share. After the initial public offering the underwriters may change the public offering price and concession.

The following table summarizes the compensation and estimated expenses we and the selling stockholders will pay:

	Per Share		Total	
	Without Over-allotment	With Over-allotment	Without Over-allotment	With Over-allotment
Underwriting Discounts and Commissions paid by us	$	$	$	$
Expenses payable by us	$	$	$	$
Underwriting Discounts and Commissions paid by selling stockholders	$	$	$	$
Expenses payable by the selling stockholders	$	$	$	$

The underwriters have informed us that they do not expect sales to accounts over which the underwriters have discretionary authority to exceed 5% of the shares of our common stock being offered.

We have agreed that we will not offer, sell, contract to sell, pledge or otherwise dispose of, directly or indirectly, or file with the Securities and Exchange Commission, which we refer to in this prospectus as the SEC, a registration statement under the Securities Act relating to, any shares of our common stock or securities convertible into or exchangeable or exercisable for any shares of our common stock, or publicly disclose the intention to make any offer, sale, pledge, disposition or filing, without the prior written consent of Credit Suisse Securities (USA) LLC for a period of 180 days after the date of this

prospectus, subject to limited exceptions. However, in the event that either (1) during the last 17 days of the "lock-up" period, we release earnings results or material news or a material event relating to us occurs or (2) prior to the expiration of the "lock-up" period, we announce that we will release earnings results during the 16-day period beginning on the last day of the "lock-up" period, then in either case the expiration of the "lock-up" will be extended until the expiration of the 18-day period beginning on the date of the release of the earnings results or the occurrence of the material news or event, as applicable, unless Credit Suisse Securities (USA) LLC waives, in writing, such an extension.

Our officers, directors, the selling stockholders and certain other holders of our common stock have agreed that they will not offer, sell, contract to sell, pledge or otherwise dispose of, directly or indirectly, any shares of our common stock or securities convertible into or exchangeable or exercisable for any shares of our common stock, enter into a transaction that would have the same effect, or enter into any swap, hedge or other arrangement that transfers, in whole or in part, any of the economic consequences of ownership of our common stock, whether any of these transactions are to be settled by delivery of our common stock or other securities, in cash or otherwise, or publicly disclose the intention to make any offer, sale, pledge or disposition, or to enter into any transaction, swap, hedge or other arrangement, without, in each case, the prior written consent of Credit Suisse Securities (USA) LLC for a period of 180 days after the date of this prospectus, subject to limited exceptions. However, in the event that either (1) during the last 17 days of the "lock-up" period, we release earnings results or material news or a material event relating to us occurs or (2) prior to the expiration of the "lock-up" period, we announce that we will release earnings results during the 16-day period beginning on the last day of the "lock-up" period, then in either case the expiration of the "lock-up" will be extended until the expiration of the 18-day period beginning on the date of the release of the earnings results or the occurrence of the material news or event, as applicable, unless Credit Suisse Securities (USA) LLC waives, in writing, such an extension.

The underwriters have reserved for sale at the initial public offering price up to 245,000 shares of our common stock for employees, directors and other persons associated with us who express an interest in purchasing our common stock in this offering. The number of shares available for sale to the general public in this offering will be reduced to the extent these persons purchase the reserved shares. Any reserved shares not so purchased will be offered by the underwriters to the general public on the same terms as the other shares. We have agreed to reimburse Credit Suisse Securities (USA) LLC for its reasonable out-of-pocket fees and disbursements of counsel in connection with this reserved share program, which amount is not expected to exceed $5,000.

Some of the underwriters and their affiliates have engaged in, and may in the future engage in, investment banking and other commercial dealings in the ordinary course of business with us or our affiliates. They have received, or may in the future receive, customary fees and commissions for these transactions. Credit Suisse Securities (USA) LLC acted as sole bookrunner and sole lead arranger, and Credit Suisse, Cayman Islands Branch, an affiliate of Credit Suisse Securities (USA) LLC, acts as administrative agent, and acts as a lender under the Credit and Guaranty Agreement, dated as of May 21, 2007, regarding the $60 million Senior Secured Revolving Credit Facility of Douglas Dynamics, L.L.C. Credit Suisse Securities (USA) LLC acted as sole bookrunner and sole lead arranger, and Credit Suisse, Cayman Islands Branch, an affiliate of Credit Suisse Securities (USA) LLC, acts as collateral agent, and an affiliate of Credit Suisse Securities (USA) LLC acts as a lender, administrative agent, syndication agent and documentation agent under the Credit and Guaranty Agreement, dated as of May 21, 2007, regarding the $85 million Senior Secured Term Loan Facility of Douglas Dynamics, L.L.C. In addition, Credit Suisse AG, Cayman Islands Branch is acting as administrative agent and Credit Suisse Securities (USA) LLC is acting as sole lead arranger and sole book runner in connection with the amendment to the $85 million Senior Secured Term Loan Facility of Douglas Dynamics, L.L.C. and Credit Suisse AG, Cayman Islands Branch is acting as administrative agent in

connection with the amendment to the $60 million Senior Secured Revolving Credit Facility of Douglas Dynamics, L.L.C.

We and the selling stockholders have agreed to indemnify the underwriters against liabilities under the Securities Act, or contribute to payments that the underwriters may be required to make in that respect.

We have applied to list the shares of common stock on the NYSE.

In connection with the listing of our common stock on the NYSE, the underwriters will undertake to sell round lots of 100 shares or more to a minimum of 400 beneficial owners.

Prior to the consummation of this offering, there will have been no public market for our common stock. The initial public offering price will be determined by negotiations among us and the underwriters. The principal factors to be considered in determining the initial public offering price include the following:

- the information included in this prospectus and otherwise available to the underwriters;
- market conditions for initial public offerings;
- the history of and prospectus for our business and our past and present operations;
- our past and present earnings and current financial position;
- an assessment of our management;
- the market of securities of companies in business similar to ours; and
- the general condition of the securities markets.

In connection with this offering the underwriters may engage in stabilizing transactions, over-allotment transactions, syndicate covering transactions, penalty bids and passive market making in accordance with Regulation M under the Exchange Act.

- Stabilizing transactions permit bids to purchase the underlying security so long as the stabilizing bids do not exceed a specified maximum.
- Over-allotment involves sales by the underwriters of shares in excess of the number of shares the underwriters are obligated to purchase, which creates a syndicate short position. The short position may be either a covered short position or a naked short position. In a covered short position, the number of shares over-allotted by the underwriters is not greater than the number of shares that they may purchase in the over-allotment option. In a naked short position, the number of shares involved is greater than the number of shares in the over-allotment option. The underwriters may close out any covered short position by either exercising their over-allotment option and/or purchasing shares in the open market.
- Syndicate covering transactions involve the purchases of our common stock in the open market after the distribution has been completed in order to cover syndicate short positions. In determining the source of shares to close out the short position, the underwriters will consider, among other things, the price of shares available for purchase in the open market as compared to the price at which they may purchase shares through the over-allotment option. If the underwriters sell more shares than could be covered by the over-allotment option, a naked short position, the position can only be closed out by buying shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that there could be downward pressure on the price of the shares in the open market after pricing that could adversely affect investors who purchase in this offering.

- Penalty bids permit the representative to reclaim a selling concession from a syndicate member when our common stock originally sold by the syndicate member is purchased in a stabilizing or syndicate covering transaction to cover syndicate short positions.

- In passive market making, market makers in our common stock who are underwriters or prospective underwriters may, subject to limitations, make bids for or purchases of our common stock until the time, if any, at which a stabilizing bid is made.

These stabilizing transactions, syndicate covering transactions and penalty bids may have the effect of raising or maintaining the market price of our common stock or preventing or retarding a decline in the market price of our common stock. As a result the price of our common stock may be higher than the price that might otherwise exist in the open market. These transactions may be effected on the NYSE or otherwise and, if commenced, may be discontinued at any time.

A prospectus in electronic format may be made available on the websites maintained by one or more of the underwriters, or selling group members, if any, participating in this offering and one or more of the underwriters participating in this offering may distribute prospectuses electronically. The representative may agree to allocate a number of shares to underwriters and selling group members for sale to their online brokerage account holders. Internet distributions will be allocated by the underwriters and selling group members that will make internet distributions on the same basis as other allocations.

European Selling Restrictions

European Economic Area

In relation to each member state of the European Economic Area that has implemented the Prospectus Directive (each, a relevant member state), an offer to the public of shares of our common stock which are the subject of the offering described in this document may not be made in that relevant member state, except that an offer to the public in that relevant member state of shares of our common stock may be made at any time under the following exemptions under the Prospectus Directive, if they have been implemented in that relevant member state:

- to any legal entity that is authorized or regulated to operate in the financial markets or, if not so authorized or regulated, whose corporate purpose is solely to invest in securities; or

- to any legal entity that has two or more of (1) an average of at least 250 employees during the last financial year; (2) a total balance sheet of more than €43,000,000 and (3) an annual net turnover of more than €50,000,000, as shown in its last annual or consolidated accounts; or

- to fewer than 100 natural or legal persons (other than qualified investors as defined in the Prospectus Directive) subject to obtaining the prior consent of the underwriters for any such offer; or

- in any other circumstances that do not require the publication of a prospectus pursuant to Article 3(2) of the Prospectus Directive,

provided, that no such offer of shares of our common stock shall result in a requirement for the publication by us or any representative of a prospectus pursuant to Article 3 of the Prospectus Directive.

For the purposes of this provision, the expression an "offer to the public" in relation to any shares of our common stock in any relevant member state means the communication in any form and by any means of sufficient information on the terms of the offer and any shares of our common stock to be offered so as to enable an investor to decide to purchase or subscribe for shares of our common stock, as the expression may be varied in that member state by any measure implementing the Prospectus

Directive in that member state, and the expression "Prospectus Directive" means Directive 2003/71/EC and includes any relevant implementing measure in each relevant member state.

Each purchaser of shares of our common stock described in this document located in a relevant member state who receives any communication in respect of, or who acquires any shares of our common stock under, the offer contemplated in this document will be deemed to have represented, warranted and agreed to with each underwriter and us that (a) it is a "qualified investor" within the meaning of Article 2(1)(e) of the Prospectus Directive and (b) in the case of any common stock acquired by it as a financial intermediary, as that term is used in Article 3(2) of the Prospectus Directive, (i) the shares of our common stock acquired by it in the offer have not been acquired on behalf of, nor have they been acquired with a view to their offer or resale to, persons in any relevant member state, other than qualified investors, as that term is defined in the Prospectus Directive, or in circumstances in which the prior consent of the underwriters has been given to the offer or resale; or (ii) where shares of our common stock have been acquired by it on behalf of persons in any relevant member state other than qualified investors, the offer of such shares of our common stock to it is not treated under the Prospectus Directive as having been made to such persons.

United Kingdom

This document is only being distributed to, and is only directed at, (a) persons who are outside the United Kingdom or (b) persons in the United Kingdom that are qualified investors within the meaning of Article 2(1)(e) of the Prospectus Directive (Qualified Investors) that are also (i) investment professionals falling within Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (the Order) or (ii) high net worth entities, and other persons to whom it may lawfully be communicated, falling within Article 49(2)(a) to (d) of the Order (all such persons together being referred to as relevant persons). Any person in the United Kingdom that is not a relevant person should not act or rely on this document or any of its contents. Any investment activity to which this document relates is available only to, and will be engaged in only with, relevant persons.

The underwriters have not and will not communicate or cause to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial Services and Markets Act 2000 ("FSMA")) received by them in connection with the issue and sale of shares of our common stock in circumstances in which Section 21(1) of the FSMA does not apply; and the underwriters have complied and will comply with all applicable provisions of the FSMA with respect to anything done by them in relation to the shares of our common stock in, from or otherwise involving the United Kingdom.

This document and its contents are confidential and should not be distributed, published or reproduced (in whole or in part) or disclosed by recipients to any other persons in the United Kingdom.

Israeli Selling Restrictions

In the State of Israel, the common stock offered hereby may not be offered to any person or entity other than the following:

(a) a fund for joint investments in trust (i.e., mutual fund), as such term is defined in the Law for Joint Investments in Trust, 5754-1994, or a management company of such a fund;

(b) a provident fund as defined in Section 47(a)(2) of the Income Tax Ordinance of the State of Israel, or a management company of such a fund;

(c) an insurer, as defined in the Law for Oversight of Insurance Transactions, 5741-1981, (d) a banking entity or satellite entity, as such terms are defined in the Banking Law (Licensing), 5741-1981,

other than a joint services company, acting for their own account or for the account of investors of the type listed in Section 15A(b) of the Securities Law 1968;

(d) a company that is licensed as a portfolio manager, as such term is defined in Section 8(b) of the Law for the Regulation of Investment Advisors and Portfolio Managers, 5755-1995, acting on its own account or for the account of investors of the type listed in Section 15A(b) of the Securities Law 1968;

(e) a company that is licensed as an investment advisor, as such term is defined in Section 7(c) of the Law for the Regulation of Investment Advisors and Portfolio Managers, 5755-1995, acting on its own account;

(f) a company that is a member of the Tel Aviv Stock Exchange, acting on its own account or for the account of investors of the type listed in Section 15A(b) of the Securities Law 1968;

(g) an underwriter fulfilling the conditions of Section 56(c) of the Securities Law, 5728-1968;

(h) a venture capital fund (defined as an entity primarily involved in investments in companies which, at the time of investment, (i) are primarily engaged in research and development or manufacture of new technological products or processes and (ii) involve above-average risk);

(i) an entity primarily engaged in capital markets activities in which all of the equity owners meet one or more of the above criteria; and

(j) an entity, other than an entity formed for the purpose of purchasing common stock in this offering, in which the shareholders equity (including pursuant to foreign accounting rules, international accounting regulations and U.S. generally accepted accounting rules, as defined in the Securities Law Regulations (Preparation of Annual Financial Statements), 1993) is in excess of NIS 250 million.

Any offeree of the common stock offered hereby in the State of Israel shall be required to submit written confirmation that it falls within the scope of one of the above criteria. This document will not be distributed or directed to investors in the State of Israel who do not fall within one of the above criteria.

NOTICE TO CANADIAN RESIDENTS

Resale Restrictions

The distribution of the shares of our common stock in Canada is being made only on a private placement basis exempt from the requirement that we and the selling stockholders prepare and file a prospectus with the securities regulatory authorities in each province where trades of shares of our common stock are made. Any resale of the shares of our common stock in Canada must be made under applicable securities laws which will vary depending on the relevant jurisdiction, and which may require resales to be made under available statutory exemptions or under a discretionary exemption granted by the applicable Canadian securities regulatory authority. Purchasers are advised to seek legal advice prior to any resale of the shares of our common stock

Representations of Purchasers

By purchasing shares of our common stock in Canada and accepting a purchase confirmation a purchaser is representing to us, the selling stockholders and the dealer from whom the purchase confirmation is received that:

- the purchaser is entitled under applicable provincial securities laws to purchase the shares of our common stock without the benefit of a prospectus qualified under those securities laws,
- where required by law, that the purchaser is purchasing as principal and not as agent,
- the purchaser has reviewed the text above under Resale Restrictions, and
- the purchaser acknowledges and consents to the provision of specified information concerning its purchase of the shares of our common stock to the regulatory authority that by law is entitled to collect the information.

Further details concerning the legal authority for this information is available on request.

Rights of Action—Ontario Purchasers Only

Under Ontario securities legislation, certain purchasers who purchase a security offered by this prospectus during the period of distribution will have a statutory right of action for damages, or while still the owner of the shares of our common stock, for rescission against us and the selling stockholders in the event that this prospectus contains a misrepresentation without regard to whether the purchaser relied on the misrepresentation. The right of action for damages is exercisable not later than the earlier of 180 days from the date the purchaser first had knowledge of the facts giving rise to the cause of action and three years from the date on which payment is made for the shares of our common stock. The right of action for rescission is exercisable not later than 180 days from the date on which payment is made for the shares of our common stock. If a purchaser elects to exercise the right of action for rescission, the purchaser will have no right of action for damages against us or the selling stockholders. In no case will the amount recoverable in any action exceed the price at which the shares of our common stock were offered to the purchaser and if the purchaser is shown to have purchased the securities with knowledge of the misrepresentation, we and the selling stockholders, will have no liability. In the case of an action for damages, we and the selling stockholders, will not be liable for all or any portion of the damages that are proven to not represent the depreciation in value of the shares of our common stock as a result of the misrepresentation relied upon. These rights are in addition to, and without derogation from, any other rights or remedies available at law to an Ontario purchaser. The foregoing is a summary of the rights available to an Ontario purchaser. Ontario purchasers should refer to the complete text of the relevant statutory provisions.

Enforcement of Legal Rights

All of our directors and officers as well as the experts named herein and the selling stockholders may be located outside of Canada and, as a result, it may not be possible for Canadian purchasers to effect service of process within Canada upon us or those persons. All or a substantial portion of our assets and the assets of those persons may be located outside of Canada and, as a result, it may not be possible to satisfy a judgment against us or those persons in Canada or to enforce a judgment obtained in Canadian courts against us or those persons outside of Canada.

Taxation and Eligibility for Investment

Canadian purchasers of shares of our common stock should consult their own legal and tax advisors with respect to the tax consequences of an investment in the shares of our common stock in their particular circumstances and about the eligibility of the shares of our common stock for investment by the purchaser under relevant Canadian legislation.

LEGAL MATTERS

The validity of the shares of our common stock offered hereby will be passed upon for us by Gibson, Dunn & Crutcher LLP, Los Angeles, California. Gibson, Dunn & Crutcher LLP regularly serves as counsel to Aurora Capital Group and its affiliates and is also representing Aurora Capital Group as a selling stockholder in connection with this offering. The validity of the shares of our common stock offered hereby will be passed upon for the underwriters by Skadden, Arps, Slate, Meagher & Flom LLP, Los Angeles, California.

EXPERTS

The consolidated financial statements of Douglas Dynamics, Inc. at December 31, 2009 and 2008, and for each of the three years in the period ended December 31, 2009, appearing in this prospectus and registration statement have been audited by Ernst & Young LLP, independent registered public accounting firm, as set forth in their report thereon appearing elsewhere herein, and are included in reliance upon such report given on the authority of such firm as experts in accounting and auditing.

WHERE YOU CAN FIND MORE INFORMATION

We have filed with the SEC a registration statement on Form S-1 under the Securities Act that registers the shares of our common stock to be sold in this offering. The registration statement, including the attached exhibits and schedules, contains additional relevant information about us and our capital stock. The rules and regulations of the SEC allow us to omit from this prospectus certain information included in the registration statement. For further information about us and our common stock, you should refer to the registration statement and the exhibits and schedules filed with the registration statement. With respect to the statements contained in this prospectus regarding the contents of any agreement or any other document, in each instance, the statement is qualified in all respects by the complete text of the agreement or document, a copy of which has been filed or will be filed with the SEC as an exhibit to the registration statement of which this prospectus forms a part. In addition, upon the consummation of this offering, we will file annually, quarterly, and current reports, proxy statements and other information with the SEC under the Exchange Act. You may obtain copies of this information by mail from the Public Reference Room of the SEC at 100 F Street, N.E., Room 1580, Washington, D.C. 20549, at prescribed rates. You may obtain information on the operation of the public reference rooms by calling the SEC at 1-800-SEC-0330. The SEC also maintains an internet website that contains reports, proxy statements and other information about issuers that file electronically with the SEC. The address of that website is *www.sec.gov*.

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders of Douglas Dynamics, Inc.

We have audited the accompanying consolidated balance sheets of Douglas Dynamics, Inc. and subsidiaries (the Company) as of December 31, 2009 and 2008, and the related consolidated statements of operations, redeemable stock and stockholders' equity, and cash flows for each of the three years in the period ended December 31, 2009. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. We were not engaged to perform an audit of the Company's internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Douglas Dynamics, Inc. and subsidiaries at December 31, 2009 and 2008, and the consolidated results of their operations and their cash flows for each of the three years in the period ended December 31, 2009 in conformity with U.S. generally accepted accounting principles.

As discussed in Notes 12 and 10 to the consolidated financial statements, the Company adopted guidance originally issued in Financial Accounting Standards No. 158, *Employer's Accounting for Defined Benefit Pension and Other Post retirement Plans an amendment of FASB Statements No. 87, 88, 106 and 132(R)*(codified in ASC Topic 715—Compensation—Retirement Benefits), related to the Company's pension plan measurement date for the year ended December 31, 2008. The Company also adopted the guidance originally issued in Financial Accounting Standards Board Interpretation No. 48, *Accounting for Uncertainty in Income Taxes an interpretation of FASB Statement No. 109* (codified in ASC Topic 740 Income Taxes), effective January 1, 2007.

/s/ Ernst & Young LLP

Milwaukee, Wisconsin
March 8, 2010

Douglas Dynamics, Inc.

Consolidated Balance Sheets

December 31, 2009 and 2008

(in thousands except share data)

	2009	2008
Assets		
Current assets:		
Cash and cash equivalents	$ 69,073	$ 53,552
Accounts receivable, net of allowance of $755 and $622 at December 31, 2009 and 2008, respectively	32,172	28,588
Inventories	26,697	28,802
Deferred income taxes	3,729	3,133
Prepaid management fees—related party	417	417
Prepaid and other current assets	1,446	922
Total current assets	133,534	115,414
Property, plant, and equipment, net	26,661	24,261
Goodwill	107,222	107,222
Other intangible assets, net	132,950	139,111
Deferred financing costs, net	3,311	4,520
Other long-term assets	941	736
Total assets	$ 404,619	$ 391,264
Liabilities, redeemable stock and stockholders' equity		
Current liabilities:		
Accounts payable	$ 5,170	$ 4,952
Accrued expenses and other current liabilities	12,598	11,432
Accrued interest	5,367	5,369
Accrued income taxes payable	1,202	1,255
Current portion of long-term debt	850	850
Total current liabilities	25,187	23,858
Retiree health benefit obligation	7,848	6,820
Pension obligation	8,957	10,362
Deferred income taxes	18,913	16,142
Deferred compensation	1,482	1,644
Long-term debt, less current portion	231,813	232,663
Other long-term liabilities	2,195	1,714
Redeemable preferred stock—Series A, par value $0.01, 65,000 shares authorized no shares outstanding at December 31, 2009 and 2008	—	—
Redeemable preferred stock—Series B, par value $0.01, 1 share issued and outstanding at December 31, 2009 and 2008	1	1
Redeemable preferred stock—Series C, par value $0.01, 1 share issued and outstanding at December 31, 2009 and 2008	1	1
Stockholders' equity:		
Common Stock, par value $0.01, 1,000,000 shares authorized 607,231 and 608,605 shares issued and outstanding at December 31, 2009 and 2008 respectively	6	6
Additional paid-in capital	60,111	60,516
Retained earnings	53,055	43,212
Stockholders' notes receivable	(1,013)	(1,116)
Accumulated other comprehensive loss, net of tax	(3,937)	(4,559)
Total stockholders' equity	108,222	98,059
Total liabilities, redeemable stock and stockholders' equity	$ 404,619	$ 391,264

Douglas Dynamics, Inc.

Consolidated Statements of Operations

Years Ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

	2009	2008	2007
Net sales	$ 174,342	$ 180,108	$ 140,065
Cost of sales	117,264	117,911	97,249
Gross profit	57,078	62,197	42,816
Selling, general and administrative expense	26,246	25,192	20,780
Management fees—related party	1,393	1,369	1,400
Income from operations	29,439	35,636	20,636
Interest expense, net	(15,520)	(17,299)	(19,622)
Loss on extinguishment of debt	—	—	(2,733)
Other expense, net	(90)	(73)	(87)
Income (loss) before taxes	13,829	18,264	(1,806)
Income tax expense (benefit)	3,986	6,793	(749)
Net income (loss)	$ 9,843	$ 11,471	$ (1,057)
Weighted average number of common shares outstanding			
Basic	607,304	615,236	609,220
Diluted	621,002	630,429	609,220
Earnings (loss) per share:			
Basic	$ 16.21	$ 18.64	$ (1.74)
Diluted	$ 15.85	$ 18.20	$ (1.74)
Pro forma weighted average common shares outstanding (unaudited)			
Basic	14,423,470	14,611,855	14,468,975
Diluted	14,748,798	14,972,689	14,468,975
Pro forma earnings (loss) per share (unaudited)			
Basic	$ 0.68	$ 0.79	$ (0.07)
Diluted	$ 0.67	$ 0.77	$ (0.07)

Douglas Dynamics, Inc.
Consolidated Statements of Redeemable Stock and Stockholders' Equity
(in thousands except share data)

	Redeemable Securities													
	Series A Redeemable Preferred Stock		Series B Redeemable Preferred		Series C Redeemable Preferred		Common Stock		Additional Paid-in Capital	Retained Earnings	Stockholders' Notes Receivable	Accumulated Other Comprehensive Loss	Total	Comprehensive Income (Loss)
	Shares	Dollars	Shares	Dollars	Shares	Dollars	Shares	Dollars						
Balance at January 1, 2007	—	$ —	1	$ 1	1	$ 1	606,656	$ 6	$ 61,403	$ 33,463	$ (801)	$ (352)	$ 93,719	$ —
Net loss	—	—	—	—	—	—	—	—	—	(1,057)	—	—	(1,057)	(1,057)
Adjustment to initially apply Accounting for Uncertainty in Income taxes	—	—	—	—	—	—	—	—	—	(551)	—	—	(551)	—
Adjustment for pension and postretirement benefit liability, net of tax of $68	—	—	—	—	—	—	—	—	—	—	—	(116)	(116)	(116)
Common stock option exercises and issuance of stockholder's notes receivable, including interest	—	—	—	—	—	—	8,875	—	888	—	(941)	—	(53)	—
Balance at December 31, 2007	—	—	1	1	1	1	615,531	6	62,291	31,855	(1,742)	(468)	91,942	$ (1,173)
Net income	—	—	—	—	—	—	—	—	—	11,471	—	—	11,471	11,471
Adjustment for pension and postretirement benefit liability, net of tax of $1,913	—	—	—	—	—	—	—	—	—	—	—	(2,449)	(2,449)	(2,449)
Change in pension measurement date, net of tax of $964	—	—	—	—	—	—	—	—	—	(114)	—	(1,642)	(1,756)	—
Interest on stockholders' notes receivable	—	—	—	—	—	—	—	—	—	—	(77)	—	(77)	—
Stock repurchases and retirement	—	—	—	—	—	—	(6,926)	—	(1,775)	—	703	—	(1,072)	—
Balance at December 31, 2008	—	—	1	1	1	1	608,605	6	60,516	43,212	(1,116)	(4,559)	98,059	$ 9,022
Net income	—	—	—	—	—	—	—	—	—	9,843	—	—	9,843	$ 9,843
Adjustment for pension and postretirment benefit liability, net of tax of $365	—	—	—	—	—	—	—	—	—	—	—	622	622	622
Interest on stockholders' notes receivable	—	—	—	—	—	—	—	—	—	—	(34)	—	(34)	—
Stock repurchases and retirement	—	—	—	—	—	—	(1,374)	—	(405)	—	137	—	(268)	—
Balance at December 31, 2009	—	$ —	1	$ 1	1	$ 1	607,231	$ 6	$ 60,111	$ 53,055	$ (1,013)	$ (3,937)	$ 108,222	$ 10,465

Douglas Dynamics, Inc.

Consolidated Statements of Cash Flows

Years ended December 31, 2009, 2008 and 2007

(in thousands)

	2009	2008	2007
Operating activities			
Net income (loss)	$ 9,843	$ 11,471	$ (1,057)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:			
Depreciation and amortization	11,958	10,810	10,796
Amortization of deferred financing costs	1,209	1,138	1,339
Stock-based compensation	732	—	—
Loss on extinguishment of debt	—	—	2,733
Provision (recovery) for losses on accounts receivable	133	81	(41)
Deferred income taxes	1,810	3,946	3,511
Loss on sale of equipment	3	14	25
Interest earned on notes receivable from stockholders	(34)	(48)	(53)
Changes in operating assets and liabilities:			
Accounts receivable	(3,717)	(1,182)	(7,318)
Inventories	2,105	(11,716)	10,200
Prepaid, other assets, and income tax receivable	(776)	4,105	(57)
Accounts payable	218	335	539
Accrued expenses and other current liabilities	1,158	4,510	324
Deferred compensation	(162)	(45)	(149)
Benefit obligations and other long-term liabilities	1,091	(8)	(752)
Net cash provided by operating activities	25,571	23,411	20,040
Investing activities			
Capital expenditures	(8,200)	(3,160)	(1,049)
Proceeds from sale of equipment	—	47	4
Net cash used in investing activities	(8,200)	(3,113)	(1,045)
Financing activities			
Stock repurchases	(1,000)	(1,101)	—
Payments of deferred financing costs	—	(314)	(2,672)
Borrowings on long-term debt	—	—	85,000
Payment of long-term debt	(850)	(850)	(78,245)
Net cash provided by (used in) financing activities	(1,850)	(2,265)	4,083
Increase in cash	15,521	18,033	23,078
Cash and cash equivalents at beginning of year	53,552	35,519	12,441
Cash and cash equivalents at end of year	$ 69,073	$ 53,552	$ 35,519
Supplemental disclosure of cash flow information			
Income tax (received) paid, net	$ 1,895	$ 2,832	$ (4,259)
Interest paid	14,410	16,730	18,455
Issuance of notes receivable to stockholders upon the exercise of stock options	—	—	888

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

1. Description of business and basis of presentation

Douglas Dynamics, Inc., is the North American leader in the design, manufacture and sale of snow and ice control equipment for light trucks, which is comprised of snowplows and sand and salt spreaders, and related parts and accessories. The Company's snow and ice control products are sold through a network of over 720 truck equipment distributors that purchase directly from the Company and are located throughout the snowbelt regions in North America (primarily the Midwest, East and Northeast regions of the United States as well as all provinces of Canada). The Company sells its products under the WESTERN®, FISHER®, and BLIZZARD® brands. The Company is headquartered in Milwaukee, WI and currently has manufacturing facilities in Milwaukee, WI, Rockland, ME, and Johnson City, TN; however, the Company plans to close its Johnson City, TN facility in mid-2010. The Company operates as a single segment.

On July 1, 2009, the Company adopted Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") 105-10, *The FASB Accounting Standards Codification and Hierarchy of Generally Accepted Accounting Principles, a replacement of FASB Statement No. 162* ("ASC 105-10"). This pronouncement established the FASB ASC as the source of authoritative accounting principles recognized by the FASB to be applied in preparation of financial statements in conformity with U.S. generally accepted accounting principles ("GAAP"). The adoption of this standard did not have a material impact on the Company's consolidated financial statements.

2. Summary of Significant Accounting Policies

Principles of consolidation

The accompanying consolidated financial statements include the accounts of Douglas Dynamics, Inc. and its direct wholly-owned subsidiary, Douglas Dynamics, L.L.C., and its indirect wholly-owned subsidiaries, Douglas Dynamics Finance Company (an inactive subsidiary) and Fisher, LLC (hereinafter collectively referred to as the "Company"). All intercompany balances and transactions have been eliminated in consolidation.

Unaudited pro forma net income (loss) per common share and weighted average common shares outstanding

The pro forma basic and diluted net income (loss) per common share and pro forma basic and diluted weighted average shares are unaudited and give effect for all periods to the 23.75 for 1.00 stock split of the Company's common stock to occur immediately prior to the completion of this offering.

Use of estimates

The preparation of the financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting periods. Accordingly, actual results could differ from those estimates.

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

2. Summary of Significant Accounting Policies (Continued)

Cash and Cash Equivalents

The Company considers all highly liquid investments purchased with an original maturity of three months or less to be cash equivalents. Cash equivalents are carried at cost, which approximates fair value.

Accounts receivable and allowance for doubtful accounts

The Company carries its accounts receivable at their face amount less an allowance for doubtful accounts. The majority of the Company's accounts receivable are due from distributors of truck equipment. Credit is extended based on an evaluation of a customer's financial condition. On a periodic basis, the Company evaluates its accounts receivable and establishes the allowance for doubtful accounts based on a combination of specific customer circumstances and credit conditions based on a history of write-offs and collections. A receivable is considered past due if payments have not been received within agreed upon invoice terms. Accounts receivable are written off after all collection efforts have been exhausted. The Company takes a security interest in the inventory as collateral for the receivable but often does not have a priority security interest.

Financing program

The Company is party to a financing program in which certain distributors may elect to finance their purchases from the Company through a third party financing company. The Company provides the third party financing company recourse against the Company regarding the collectability of the receivable under the program due to the fact that if the third party financing company is unable to collect from the distributor the amounts due in respect of the product financed, the Company would be obligated to repurchase any remaining inventory related to the product financed and reimburse any legal fees incurred by the financing company. During the years ended December 31, 2009, 2008 and 2007, distributors financed purchases of $3,269, $3,462 and $3,365 through this financing program, respectively. There were no outstanding or uncollectible amounts related to sales financed under the financing program for the years ended December 31, 2009 and 2008. The amount owed by our distributors to the third party financing company under this program at December 31, 2009 and 2008 was $3,202 and $2,653, respectively. The Company was required to repurchase repossessed inventory of $19 for the year ended December 31, 2009. There were no required repurchases of repossessed inventory during the years ended December 31, 2008 and 2007.

In the past, minimal losses have been incurred under this agreement. However, an adverse change in distributor retail sales could cause this situation to change and thereby require the Company to repurchase repossessed units. Any repossessed units are inspected to ensure they are current, unused product and are restocked and resold.

Inventories

Inventories are stated at the lower of cost or market. Market is determined based on estimated realizable values. Inventory costs are primarily determined by the first-in, first-out (FIFO) method. The Company periodically review our inventory for slow moving, damaged and discontinued items and provide reserves to reduce such items identified to their recoverable amounts.

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

2. Summary of Significant Accounting Policies (Continued)

Property, plant and equipment

Property, plant and equipment are recorded at cost, less accumulated depreciation. Depreciation is computed using straight-line methods over the estimated useful lives for financial statement purposes and an accelerated method for income tax reporting purposes. The estimated useful lives of the assets are as follows:

	Years
Land improvements and buildings	15-40
Machinery and equipment	3-20
Furniture and fixtures	3-12
Mobile equipment and other	3-10

Depreciation expense was $5,797, $4,650 and $4,632 for the years ended December 31, 2009, 2008 and 2007 respectively.

Expenditures for renewals and improvements that significantly add to the productive capacity or extend the useful life of an asset are capitalized. Expenditures for maintenance and repairs are charged to operations when incurred. Repairs and maintenance expenses amounted to $3,079, $2,610 and $2,307 for the years ended December 31, 2009, 2008 and 2007, respectively. When assets are sold or retired, the cost of the asset and the related accumulated depreciation are eliminated from the accounts and any gain or loss is recognized in the results of operations.

Impairment of long-lived assets

Long-lived assets are reviewed for potential impairment when events or changes in circumstances indicate that the carrying amount of the asset may not be recoverable. Recoverability of assets to be held and used is measured by comparison of the carrying value of such assets to the undiscounted future cash flows expected to be generated by the assets. If the carrying value of an asset exceeds its estimated undiscounted future cash flows, an impairment provision is recognized to the extent that the carrying amount of the asset exceeds its fair value. Assets to be disposed of are reported at the lower of the carrying amount or the fair value of the asset, less costs of disposition. Management of the Company considers such factors as current results, trends and future prospects, current market value, and other economic and regulatory factors in performing these analyses. The Company determined that no long-lived assets were impaired as of December 31, 2009 and 2008.

Goodwill and other intangible assets

Goodwill and indefinite-lived intangible assets are tested for impairment annually in the fourth quarter, or sooner if impairment indicators arise. The fair value of indefinite-lived intangible assets is estimated based upon discounted future cash flow projections. In reviewing goodwill for impairment, potential impairment is identified by comparing the estimated fair value of the reporting unit to its carrying value. The Company has determined it has one reporting unit. The fair value of the reporting unit is estimated by applying valuation multiples or estimating future discounted cash flows. The selection of multiples is dependent upon assumptions regarding future levels of operating performance as well as business trends, prospects and market and economic conditions. In addition, where

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

2. Summary of Significant Accounting Policies (Continued)

applicable, an appropriate discount rate is used, based on the Company's cost of capital or location-specific economic factors. When the fair value is less than the carrying value of the net assets of the reporting unit, including goodwill, an impairment loss may be recognized. The Company has determined that goodwill and indefinite lived assets were not impaired as of December 31, 2009 and 2008.

Intangible assets with estimable useful lives are amortized over their respective estimated useful lives and also reviewed at least annually for impairment or as events or circumstances arise. The Company amortizes its distribution network intangible over periods ranging from 15 to 20 years, tradenames over 7 to 10 years, patents over 7 to 20 years, and noncompete agreements over 5 years.

Income taxes

Deferred income taxes are accounted for under the asset and liability method whereby deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates. Deferred income tax provisions or benefits are based on the change in the deferred tax assets and liabilities from period to period. Effective January 1, 2007, the Company adopted the guidance on accounting for uncertainty in income taxes in ASC 740-10 (formerly referred to as FASB Interpretation 48, *Accounting for Uncertainty in Income Taxes*), which provides a comprehensive model for the recognition, measurement, and disclosure in financial statements of uncertain income tax positions a company has taken or expects to take on an income tax return. Deferred income tax assets are reduced by a valuation allowance if it is more likely than not that some portion of the deferred income tax asset will not be realized. Additionally, when applicable, the Company would classify interest and penalties related to uncertain tax positions in income tax expense.

Deferred financing costs

The costs of obtaining financing are capitalized and amortized over the term of the related financing on a basis that approximates the effective interest method. The changes in deferred financing costs are as follows:

Balance at January 1, 2007	$ 6,744
Amortization of deferred financing costs	(1,339)
Refinancing of debt	2,672
Write-off of deferred financing costs	(2,733)
Balance at December 31, 2007	5,344
Amortization of deferred financing costs	(1,138)
Debt amendment	314
Balance at December 31, 2008	4,520
Amortization of deferred financing costs	(1,209)
Balance at December 31, 2009	$ 3,311

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

2. Summary of Significant Accounting Policies (Continued)

For the year ended December 31, 2007, the Company recorded the write-off of deferred financing costs as a loss on extinguishment of debt, in the consolidated statements of operations. During the year ended December 31, 2008, the Company capitalized deferred financing costs paid to the bank with respect to an amendment to the credit facilities, as it was not considered a significant modification.

Fair values of financial instruments

The Company's financial instruments consist of cash, trade receivables, trade accounts payable, and long-term debt. The Company's estimate of fair value of all these financial instruments approximates their carrying amounts at December 31, 2009, except for long term debt. The fair value of the Company's long term debt as of December 31, 2009 was approximately $218,703, which is based on the borrowing rates currently available to the Company for debt with similar terms and maturities.

Fair value measurements

The Company applies the guidance in Accounting Standards Codification (ASC) 820-10 *Fair Value Measurements and Disclosures* ("ASC 820-10"). ASC 820-10, among other things, defines fair value, establishes a consistent framework for measuring fair value, and expands disclosure for each major asset and liability category measured at fair value on either a recurring basis or nonrecurring basis. ASC 820-10 clarifies that fair value is an exit price, representing the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants. As such, fair value is a market-based measurement that should be determined based on assumptions that market participants would use in pricing an asset or liability. As a basis for considering such assumptions, the pronouncement establishes a three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value as follows: (Level 1) observable inputs such as quoted prices in active markets; (Level 2) inputs, other than the quoted prices in active markets, that are observable either directly or indirectly; and (Level 3) unobservable inputs in which there is little or no market data, which require the reporting entity to develop its own assumptions.

Assets and liabilities measured at fair value are based on the market approach, which is prices and other relevant information generated by market transactions involving identical or comparable assets or liabilities. At December 31, 2009 and 2008, the Company did not have any financial instruments accounted for at fair value.

Concentration of credit risk

The Company's cash is deposited with multiple financial institutions. At times, deposits in these institutions exceed the amount of insurance provided on such deposits. The Company has not experienced any losses in such accounts and believes that it is not exposed to any significant risk on these balances.

No distributor represented more than 10% of the Company's net sales or accounts receivable during the years ended December 31, 2009, 2008 and 2007.

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

2. Summary of Significant Accounting Policies (Continued)

Revenue recognition

The Company recognizes revenues upon shipment to the customer, which is when title passes and all of the following conditions are satisfied: (i) persuasive evidence of an arrangement exists; (ii) the price is fixed or determinable; (iii) collectability is reasonably assured; and (iv) the product has been shipped and the Company has no further obligations. Customers have no right of return privileges. Historically, product returns have not been material and are permitted on an exception basis only.

The Company offers a variety of discounts and sales incentives to our distributors. The estimated liability for sales discounts and allowances is recorded at the time of sale as a reduction of net sales. The liability is estimated based on the costs of the program, the planned duration of the program and historical experience.

Cost of sales

Cost of sales includes all costs associated with the manufacture of the Company's products, including raw materials, purchased parts, freight, plant operating expenses, property insurance and taxes, and plant depreciation. All payroll costs and employee benefits for the hourly workforce, manufacturing management, and engineering costs are included in cost of sales.

Warranty cost recognition

The Company accrues for estimated warranty costs as revenue is recognized. See note 9 for further details.

Advertising expenses

Advertising expenses include costs for the production of marketing media, literature, CD-ROM, and displays. The Company participates in trade shows and advertises in the yellow pages and billboards. Advertising expenses amounted to $2,528, $3,028 and $2,219 for the years ended December 31, 2009, 2008 and 2007, respectively. The Company also provides its distributors with pre-approved, cooperative advertising programs, which are recorded as advertising expense in selling, general and administrative expense. All costs associated with the Company's advertising programs are expensed as incurred.

Shipping and handling costs

Generally shipping and handling costs are paid directly by the customer to the shipping agent. Those shipping and handling costs billed by the Company are recorded as a component of sales with the corresponding costs included in cost of sales.

Reclassifications

Certain prior year amounts in the financial statements have been reclassified to conform to the current year presentation.

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

2. Summary of Significant Accounting Policies (Continued)

Share-based payments

The Company applies the guidance codified in ASC 718—*Compensation-Stock Compensation*. This standard requires the measurement of the cost of employee services received in exchange for an award of equity instruments based on the fair value of the award at the grant date and recognition of the compensation expense over the period during which an employee is required to provide service in exchange for the award (generally the vesting period). Because the Company used the minimum-value method to measure compensation cost for employee stock options prior to January 1, 2006 the date on which ASC 718 was adopted, under this previous guidance, it was required to use the prospective method of adoption for this standard. Under the prospective method, the Company continues to account for non-vested awards outstanding at the date of adoption using the same method as prior to adoption for financial statement recognition purposes. All awards granted, modified, or settled after the date of adoption are accounted for using the measurement, recognition, and attribution provisions of ASC 718.

Comprehensive income (loss)

Comprehensive income (loss) is defined as the change in equity (net assets) of a business enterprise during a period from transactions and other events and circumstances from non-owner resources and is comprised of net income or loss and "other comprehensive income (loss)". The Company's other comprehensive income (loss) is comprised exclusively of the adjustments for pension and postretirement benefit liabilities.

Segment Reporting

The Company operates in and reports as a single operating segment, which is the manufacture and sale of snow and ice control products. Net sales are generated through the sale of snow and ice control products and accessories to distributors. The chief operating decision maker (the Company's CEO) manages and evaluates its operations as one segment primarily due to similarities in the nature of the products, production processes and methods of distribution. All of the Company's identifiable assets are located in the United States. The Company's sales outside North America are not material, representing less than 1% of net sales.

The Company's product offerings primarily consist of snow and ice control products and accessories. Equipment and parts and accessories are each a similar class of products based on similar customer usage.

	Year ended December 31,		
	2009	2008	2007
Equipment	$ 147,478	$ 151,450	$ 122,091
Parts and accessories	26,864	28,658	17,974
	$ 174,342	$ 180,108	$ 140,065

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

2. Summary of Significant Accounting Policies (Continued)

New accounting pronouncements

Effective July 1, 2009, the Company adopted FASB Topic ASC 105-10, *Generally Accepted Accounting Principles—Overall* ("ASC 105-10"). ASC 105-10 establishes the FASB ASC as the source of authoritative accounting principles recognized by the FASB to be applied in the preparation of financial statements in conformity with U.S. generally accepted accounting principles ("GAAP"). The Company has updated GAAP referencing for this report. The FASB Codification has been reflected in the financial reporting of the Company.

On December 30, 2008, the FASB originally issued FSP No. FAS 132(R)-1 *Employer's Disclosures about Postretirement Benefit Assets* (codified in ASC Topic 715-20, *Defined Benefit Plans* ("ASC-715-20")) related to employers' disclosures regarding postretirement benefit plan assets. This statement provides additional guidance on employers' disclosures about plan assets of a defined benefit pension or other postretirement plan. ASC 715-20 is effective for periods ending after December 15, 2009, on a prospective basis. The adoption of this standard did not have a material impact on the Company's financial position, results of operations or cash flows.

Effective July 1, 2009, the Company adopted FASB ASC Topic 855-10, *Subsequent Events—Overall* ("ASC 855-10"). ASC 855-10 establishes standards for the accounting for and the disclosing of subsequent events. ASC 855-10 introduces new terminology, defines a date for certain companies through which management must evaluate subsequent events, and lists the circumstances under which an entity must recognize and disclose events or transactions occurring after the balance sheet date.

In December 2007, the FASB originally issued SFAS No. 141R, *Business Combinations* (codified in ASC Topic 805 ("ASC 805")), which establishes principles and requirements for how the acquirer of a business recognizes and measures in its financial statements the identifiable assets acquired, liabilities assumed, and any non-controlling interest in the acquiree. ASC 805 provides guidance for recognizing and measuring the goodwill acquired in the business combination and determines what information to disclose to enable users of the financial statements to evaluate the nature and financial effects of the business combination. ASC 805 is effective for fiscal years beginning after December 15, 2008. Early adoption is not permitted. ASC 805 is to be applied prospectively to business combinations for which the acquisition date is on or after the first reporting period beginning on or after December 15, 2008. The adoption of this standard did not have a material impact on the Company's financial position, results of operations or cash flows, however this standard will impact accounting for any future acquisition transactions.

In April 2008, the FASB originally issued FSP No. FASB 142-3, *Determination of the Useful Life of Intangible Assets* (FSP No. FAS No. 142-3) (codified in *FASB ASC Topic 350—Intangible—Goodwill and Other).* FSP No. FASB 142-3 prospectively amends the factors that should be considered in developing renewal or extension assumptions used to determine the useful life of a recognized intangible asset. The intent of the guidance is to improve the consistency between the useful life of a recognized intangible asset under FSP No. FASB 142-3 and the period of expected cash flows used to measure the fair value of the asset under FSP No. FASB 142-3. The Company adopted this pronouncement on January 1, 2009. The adoption of this pronouncement did not have a material impact to the Company's consolidated financial statements.

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

3. Related-Party Transactions

The Company is party to a Joint Management Services Agreement (the "Management Services Agreement") with affiliates of its principal stockholders. Pursuant to the Management Services Agreement, certain of these affiliates provide us with consultation and advice in fields such as financial services, accounting, general business management, acquisitions, dispositions and banking. In return for such services, the Company pays an annual services fee of $1,250 per annum, plus reimbursement of reasonable out-of-pocket expenses.

During the years ended December 31, 2009, 2008 and 2007, the Company recognized management fees and related expense of $1,393, $1,369 and $1,400 for the years ended December 31, 2009, 2008 and 2007, respectively. In addition, because fees under this agreement are payable in semi-annual installments on May 1 and November 1 of each year, at December 31, 2009 and 2008, the Company's balance sheet included a prepayment of management fees of $417.

4. Inventories

Inventories consist of the following:

	December 31	
	2009	2008
Finished goods and work-in-process	$ 24,639	$ 26,278
Raw material and supplies	2,058	2,524
	$ 26,697	$ 28,802

5. Property, plant and equipment

Property, plant and equipment are summarized as follows:

	December 31	
	2009	2008
Land	$ 1,000	$ 1,000
Land improvements	2,218	2,218
Buildings	13,766	11,998
Machinery and equipment	23,092	20,461
Furniture and fixtures	6,934	5,988
Mobile equipment and other	969	798
Construction-in-process	4,252	1,650
	52,231	44,113
Less accumulated depreciation	(25,570)	(19,852)
	$ 26,661	$ 24,261

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

6. Other Intangible Assets

The following is a summary of the Company's other intangible assets:

	Gross Carrying Amount	Less Accumulated Amortization	Net Carrying Amount
December 31, 2009:			
Indefinite-lived intangibles:			
Trademark and tradenames	$ 60,000	$ —	$ 60,000
Amortizable intangibles:			
Dealer network	80,000	23,000	57,000
Customer relations	2,000	555	1,445
Patents	15,077	3,180	11,897
Noncompete agreements	4,820	4,020	800
Trademark—Blizzard	3,100	1,292	1,808
License	17	17	—
Amortizable intangibles, net	105,014	32,064	72,950
Total	$ 165,014	$ 32,064	$ 132,950

	Gross Carrying Amount	Less Accumulated Amortization	Net Carrying Amount
December 31, 2008:			
Indefinite-lived intangibles:			
Trademark and tradenames	$ 60,000	$ —	$ 60,000
Amortizable intangibles:			
Dealer network	80,000	19,000	61,000
Customer relations	2,000	422	1,578
Patents	15,077	2,424	12,653
Noncompete agreements	4,820	3,060	1,760
Trademark—Blizzard	3,100	980	2,120
License	17	17	—
Amortizable intangibles, net	105,014	25,903	79,111
Total	$ 165,014	$ 25,903	$ 139,111

Amortization expense for intangible assets was $6,161, $6,160 and $6,164 for the years ended December 31, 2009, 2008 and 2007, respectively. Estimated amortization expense for the next five years is as follows:

2010	$ 6,001
2011	5,201
2012	5,201
2013	5,201
2014	5,193

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

6. Other Intangible Assets (Continued)

The weighted average remaining life for intangible assets is 14.1 years.

7. Long-Term Debt

Long-term debt is summarized below:

	December 31	
	2009	2008
Term notes	$ 82,663	$ 83,513
Senior notes	150,000	150,000
Total long-term debt	232,663	233,513
Less current maturities	850	850
	$ 231,813	$ 232,663

The scheduled maturities on long-term debt at December 31, 2009, are as follows:

2010	$ 850
2011	81,813
2012	150,000
	$ 232,663

On May 21, 2007, the Company consummated $145,000 senior credit facilities consisting of an $85,000 term loan facility and a $60,000 revolving credit facility with a group of banks. The senior credit facilities, which replaced the Company's previous term loan and revolver, have a maturity date of the earlier of (a) 180 days prior to the January 15, 2012 scheduled maturity date of the Company's outstanding Senior Notes or (b) May 2013, for the term loan facility and May 2012, for the revolving credit facility. Interest rates are determined the base rate, plus a margin or at the Company's option, LIBOR plus a margin.

Under the revolving credit facility, the margin for base rate loans is either 0.25% or 0.50% and the margin for LIBOR loans is either 1.25% or 1.50%, in each case determined based on our leverage ratio from time to time. Under the term loan facility, the margin for base rate loans is 1.25% and the margin for LIBOR loans is 2.25%. The average interest rate for the years ended December 31, 2009 and 2008 was 6.1% and 7.1%, respectively. In addition to refinancing our previous credit facility, the senior credit facilities are used to pay dividends, make acquisitions and for other general corporate purposes. As a result of the refinancing, the Company wrote-off $2,733 of deferred financing costs associated with the previous credit facility, which is recorded as loss on extinguishment of debt in the consolidated statements of operations for the year ended December 31, 2007. The Company also capitalized deferred financing costs of $2,672 associated with the new credit facilities. The term loan facility is payable in equal quarterly installments of $212.5 with the balance payable through the earlier of (a) 180 days prior to the January 15, 2012 scheduled maturity of the Company's outstanding senior notes or (b) May 21, 2013.

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

7. Long-Term Debt (Continued)

At December 31, 2009 there was $60,000 of credit available pursuant to the terms of the revolving credit facility.

Both of the Company's senior credit facilities include certain negative and operating covenants, including restrictions on its ability to pay dividends, and other customary covenants, representations and warranties and events of default. The senior credit facilities entered into by the Company's subsidiaries significantly restrict its subsidiaries from paying dividends and otherwise transferring assets to Douglas Dynamics, Inc. The terms of the Company's revolving credit facility specifically restrict subsidiaries from paying dividends if a minimum availability under the revolving credit facility is not maintained, and both senior credit facilities restrict subsidiaries from paying dividends above certain levels or at all if an event of default has occurred. In addition, the Company's revolving credit facility includes a requirement that, subject to certain exceptions, capital expenditures not exceed $10.0 million in any calendar year and, during the occurrence of a liquidity event, that the Company must comply with a monthly minimum fixed charge coverage ratio test of 1.0:1.0. Compliance with the fixed charge coverage ratio test is subject to certain cure rights under the Company's revolving credit facility. At December 31, 2009, the Company was in compliance with the respective covenants. The senior credit facilities are collateralized by substantially all assets of the Company.

In accordance with the senior credit facilities, the Company is required to make additional principal prepayments over the above scheduled payments under certain conditions. This includes, in the case of the term loan facility, 100% of the net cash proceeds of certain asset sales, certain insurance or condemnation events, certain debt issuances, and, within 150 days of the end of the fiscal year, 50% of excess cash flow, as defined, including a deduction for allowed distributions (which percentage is reduced to 25% or 0% upon the achievement of certain leverage ratio thresholds), for any fiscal year. Excess cash flow is defined in the senior credit facilities as consolidated adjusted EBITDA plus a working capital adjustment less the sum of repayments of debt and capital expenditures subject to certain adjustments, interest and taxes paid in cash, management fees and certain restricted payments (including dividends or distributions). Working capital adjustment is defined in the senior credit facilities as the change in working capital, defined as current assets excluding cash and cash equivalents less current liabilities excluding current portion of long term debt. For the year ended December 31, 2009, the Company was not required to make an excess cash flow payment.

The previous credit facility provided for borrowings up to $145,000, including a $50,000 term note, a tack-on term note of $40,000 and a revolving credit facility of up to $55,000. Interest on borrowings was at the Prime Rate plus an applicable margin, or at the Company's option, Eurodollar Rate plus 1.75% on the term loan and plus 2.75% on the revolving credit facility.

As of December 31, 2009 and 2008, the Company had no letters of credit outstanding.

In December 2008, the Company amended the senior credit facilities to permit the purchase of loans from any lender in the open market within the provisions of the senior credit facilities.

The Company has $150,000 of 7.75% senior notes (the "Senior Notes") due January 15, 2012. The Senior Notes are redeemable at any time on or after January 15, 2009, at the Company's option, in whole or in part, upon not less than 30 days nor more than 60 days notice to each holder of the Senior Notes. Should the Company repurchase all of the Senior Notes, the redemption prices for the purchase

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

7. Long-Term Debt (Continued)

of the Senior Notes would equal 101.938% and 100.000%, if redeemed during the twelve month period commencing January 15, 2010 and 2011 and thereafter, respectively. Interest on the Senior Notes is payable semiannually.

The indenture for the Senior Notes contains certain non-financial covenants that restrict the Company's ability to borrow money, pay dividends on or repurchase capital stock, make investments and sell assets or enter into mergers or acquisitions. At December 31, 2009, the Company was in compliance with all covenants under the indenture governing the Senior Notes. The Senior Notes are unsecured and unconditionally guaranteed by Douglas Dynamics, Inc. and all of the subsidiaries of the Company.

8. Accrued Expenses and Other Current Liabilities

Accrued expenses and other current liabilities are summarized as follows:

	December 31	
	2009	2008
Payroll and related costs	$ 3,659	$ 4,035
Employee benefits	2,534	2,195
Accrued warranty	3,040	2,272
Other	3,365	2,930
	$ 12,598	$ 11,432

9. Warranty Liability

The Company accrues for estimated warranty costs as sales are recognized and periodically assesses the adequacy of its recorded warranty liability and adjusts the amount as necessary. The Company's warranties generally provide, with respect to its snow and ice control equipment, that all material and workmanship will be free from defect for a period of two years after the date of purchase by the end-user, and with respect to its parts and accessories purchased separately, that such parts and accessories will be free from defect for a period of one year after the date of purchase by the end-user. Certain snowplows only provide for a one year warranty. The Company determines the amount of the estimated warranty costs (and its corresponding warranty reserve) based on the Company's prior five years of warranty history utilizing a formula driven by historical warranty expense and applying management's judgment. The company adjusts its historical warranty costs to take into account unique factors such as the introduction of new products into the marketplace that do not provide a historical warranty record to assess. The warranty reserve is included with Accrued Expenses and Other Current Liabilities in the accompanying consolidated balance sheets.

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

9. Warranty Liability (Continued)

The following is a rollforward of the Company's warranty liability:

	December 31	
	2009	2008
Balance at the beginning of the year	$ 2,272	$ 1,593
Warranty provision	2,913	2,523
Claims paid/settlements	(2,145)	(1,844)
Balance at the end of the year	$ 3,040	$ 2,272

10. Income Taxes

The provision for income tax expense (benefit) consists of the following:

	Year ended December 31		
	2009	2008	2007
Current:			
Federal	$ 1,284	$ 2,642	$ (4,396)
State	892	205	136
	2,176	2,847	(4,260)
Deferred:			
Federal	3,165	3,449	3,538
State	(1,355)	497	(27)
	1,810	3,946	3,511
	$ 3,986	$ 6,793	$ (749)

A reconciliation of income tax expense (benefit) computed at the federal statutory rate to the provision for income taxes for the years ended December 31, 2009, 2008 and 2007 are as follows:

	2009	2008	2007
Federal income tax expense (benefit) at statutory rate	$ 4,840	$ 6,392	$ (632)
State taxes, net of federal benefit	302	(135)	(478)
Valuation allowance changes	(1,129)	599	431
Increase in uncertain tax positions, net	276	149	178
Research and development credit	(194)	(40)	(63)
Other	(109)	(172)	(185)
	$ 3,986	$ 6,793	$ (749)

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

10. Income Taxes (Continued)

Significant components of the Company's deferred tax liabilities and assets are as follows:

	December 31,	
	2009	2008
Deferred tax assets:		
Allowance for doubtful accounts	$ 284	$ 234
Inventory reserves	726	728
Warranty liability	1,143	854
Deferred compensation	264	264
Pension and retiree health benefit obligations	6,103	5,768
Accrued vacation	523	431
Medical claims reserve	214	199
State net operating losses	2,490	2,025
Valuation allowance for state net operating losses	(566)	(1,695)
Other accrued liabilities	784	896
Total deferred tax assets	11,965	9,704
Deferred tax liabilities:		
Tax deductible goodwill	(14,789)	(12,102)
Other intangibles	(10,758)	(8,938)
Accelerated depreciation	(1,280)	(1,402)
Prepaid insurance	(209)	(101)
Deferred stock units	(113)	(170)
Total deferred tax liabilities	(27,149)	(22,713)
Net deferred tax liabilities	$ (15,184)	$ (13,009)

Deferred income tax balances reflect the effects of temporary differences between the carrying amount of assets and liabilities and their tax basis and are stated at enacted tax rates expected to be in effect when taxes are actually paid or recovered.

State operating loss carry forwards for tax purposes were $46,931 at December 31, 2009 and result in future tax benefits of approximately $2,490. These loss carry-forwards will expire beginning in 2026. The Company evaluated the need to maintain a valuation allowance against certain deferred tax assets. Based on this evaluation, which included a review of recent profitability and future projections of profitability, the Company concluded that a valuation allowance of approximately $566 is necessary at December 31, 2009 for the state net operating loss carry-forwards which are likely to expire prior to the Company's ability to use the tax benefit.

In the first quarter of 2009 the Company reversed $1,213 of its valuation allowance for state net operating losses in Wisconsin due to a tax law change, which was effective January 1, 2009.

On January 1, 2007, the Company adopted accounting guidance originally issued under Financial Interpretation No. 48,*Accounting for Uncertainty in Income Taxes* (codified in ASC 740 *Income Taxes*). This interpretation prescribes the minimum recognition threshold which a tax position is required to meet before being recognized in the financial statements. This pronouncement also provides guidance on the measurement, classification and derecognition of tax positions. As a result of the adoption of

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

10. Income Taxes (Continued)

this pronouncement, the Company recognized an increase in the liability for unrecognized tax benefits of approximately $985, an increase in other assets of $434 and a reduction of the January 1, 2007 balance of retained earnings of $551.

A reconciliation of the beginning and ending liability for uncertain tax positions is as follows:

	2009	2008
Balance at beginning of year	$ 1,613	$ 1,238
Increases for tax positions taken in the current year	356	305
Increases for tax positions taken in prior years	126	70
Balance at the end of year	$ 2,095	$ 1,613

The amount of the unrecognized tax benefits that would affect the effective tax rate, if recognized, was approximately $1,154 and $878 at December 31, 2009 and 2008 respectively. The Company recognizes interest and penalties related to the unrecognized tax benefits in income tax expense. Approximately $653 and $456 of accrued interest and penalties is reported as an income tax liability at December 31, 2009 and 2008, respectively. The liability for unrecognized tax benefits is reported in Other Liabilities on the consolidated balance sheets at December 31, 2009 and 2008. The Company recognized $153 and $107 of expenses related to interest and penalties in income tax expense for the years ended December 31, 2009 and 2008, respectively. No interest or penalties were recognized prior to the adoption of FIN 48.

The Company files income tax returns in the United States (Federal), Wisconsin (state), Maine (state) and various other states. Tax years open to examination by tax authorities under the statute of limitations include 2008 for Federal and 2005 through 2008 for most states. Tax returns for the 2009 tax year have not yet been filed.

11. Deferred Compensation

The Company has a long-term incentive compensation plan covering certain management employees. Under the terms of the plan, the participants earn (lose) additional compensation based upon a percentage of the Company's cash flow from operations reduced by capital expenditures under a predetermined formula. In addition, participants' account balances under the plan increase or decrease on an annual basis based upon the Company's cash flow from operations reduced by capital expenditures under a predetermined formula. Amounts credited to participant accounts under the plan are non-forfeitable unless a participant is terminated for cause or voluntarily terminates his or her employment with the Company. In either of these events, the terminated participant will forfeit any positive amounts allocated to his or her account for the two years preceding the year of termination.

Compensation earned under the plan is deferred until such time as the participant has an account balance of more than two times his or her base compensation, at which point 20% of the balance is

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

11. Deferred Compensation (Continued)

paid to the participant in cash in a lump sum. Participants are paid their vested account balances under the plan upon separation from the Company as follows:

	Payment Method
Death, long-term disability, or normal retirement	Lump sum
Balance of less than $75,000	Lump sum
Balance greater than $75,000	5 equal annual installments

With respect to account balances paid in installments, participants earn interest each year on the unpaid balance at the one-year U.S. Treasury rate in effect at the beginning of the year.

Activity for the plan is as follows:

	December 31	
	2009	2008
Balance at beginning of year	$ 1,791	$ 1,855
Participant earnings according to the terms of the plan	120	98
Payments to current and former participants	(206)	(162)
Balance at end of year	1,705	1,791
Less current portion	(223)	(147)
	$ 1,482	$ 1,644

12. Employee Retirement Plans

Pension benefits

The Company provides noncontributory defined benefit pension plans for most employees. Plans covering salaried employees generally provide pension benefits that are based on the employee's average earnings and credited service. Plans covering hourly employees generally provide benefits of stated amounts for each year of service. The Company's funding policy for the plans is to contribute amounts sufficient to meet the minimum funding requirement of the Employee Retirement Income Security Act of 1974, plus any additional amounts that the Company may determine to be appropriate.

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

12. Employee Retirement Plans (Continued)

The reconciliation of the beginning and ending balances of the fair value of plan assets, funded status of plans, and amounts recognized in the consolidated balance sheets consisted of the following:

	December 31	
	2009	2008
Change in projected benefit obligation:		
Benefit obligation at beginning of year	$ 23,010	$ 22,672
Service cost	820	1,159
Interest cost	1,355	1,667
Actuarial gain	403	(1,490)
Benefits paid	(865)	(998)
Benefit obligation at end of year	24,723	23,010
Change in plan assets:		
Fair value of plan assets at beginning of year	12,648	18,677
Actual return on plan assets	2,630	(6,232)
Employer contributions through December 31	1,353	1,201
Benefits paid	(865)	(998)
Fair value of plan assets at end of year	15,766	12,648
Funded Status: accrued pension liability	$ (8,957)	$ (10,362)

The components of net periodic pension cost consisted of the following for the years ended December 31,

	2009	2008	2007
Component of net periodic pension cost:			
Service cost	$ 820	$ 1,159	$ 942
Interest cost	1,355	1,667	1,250
Expected return on plan assets	(984)	(1,914)	(1,005)
Amortization of net loss	519	—	6
Net periodic pension cost	$ 1,710	$ 912	$ 1,193

The accumulated benefit obligation for all pension plans as of December 31, 2009 and 2008, was $22,957 and $21,801, respectively.

For the year ended December 31, 2007, the Company used October 1 as its measurement date to compute its pension liability. In accordance with its adoption of ASC 715-20, the Company changed its

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

12. Employee Retirement Plans (Continued)

measurement date to December 31 for the year ended December 31, 2008. Assumptions used in determining net periodic pension cost for the plans consisted of the following:

	Year ended December 31		
	2009	2008	2007
Discount rates	6.00%	6.00%	6.00%*
Rates of increase in compensation levels:			
Salaried	3.50	3.50	4.50
Hourly	N/A	N/A	N/A
Expected long-term rate of return on assets	8.00	8.00	8.00

* Rate listed is that used to compute: (i) the benefit obligation at October 1 and (ii) the net periodic pension cost (interest component) for the following year.

To determine the long-term rate of return assumption for plan assets, the Company studies historical markets and preserves the long-term historical relationships between equities and fixed-income securities consistent with the widely accepted capital market principle that assets with higher volatility generate a greater return over the long run. The Company evaluates current market factors such as inflation and interest rates before it determines long-term capital market assumptions and reviews peer data and historical returns to check for reasonableness and appropriateness. The discount rate is based on the Citigroup Pension Liability Index or Moody's.

The expected benefit payments under the pension plans are as follows:

2010	$ 1,050
2011	1,070
2012	1,160
2013	1,200
2014	1,260
2015-2019	7,060

The Company made required minimum pension funding contributions of $1,353 to the pension plans in 2009 and currently expects to make $911 required minimum pension funding contributions in 2010.

The Company maintains target allocation percentages among various asset classes based on an investment policy established for the pension plans, which is designed to achieve long-term objectives of return, while mitigating downside risk and considering expected cash flows. The current weighted-average target asset allocations are reflective of actual investments at December 31, 2009 and 2008. The investment policy is reviewed periodically in order to achieve overall objectives in light of current circumstances.

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

12. Employee Retirement Plans (Continued)

The Company's weighted-average asset allocation for the qualified pension plans by asset category is as follows:

	Target	2009		2008	
Large Cap Equity	37%	$ 6,106	39%	$ 4,593	36%
Mid Cap Equity	4%	601	4%	460	4%
Small Cap Equity	3%	586	4%	474	4%
International Equity	12%	2,015	13%	1,581	13%
Emerging markets Equity	2%	240	2%	171	1%
Fixed Income and Cash Equivalents	34%	5,241	33%	4,165	33%
Real Estate	8%	977	6%	1,204	10%
Total	100%	$ 15,766	100%	$ 12,648	100%

The investment strategy is to build an efficient, well-diversified portfolio based on a long-term, strategic outlook of the investment markets. The investment market outlook utilizes both historical-based and forward-looking return forecasts to establish future return expectations for various asset classes. These return expectations are used to develop a core asset allocation based on the needs of the plan. The core asset allocation utilizes investment portfolios of various asset classes and multiple investment managers in order to help maximize the plan's return while providing multiple layers of diversification to help minimize risk.

The following table presents the fair values of the plan assets related to the Company's pension within the fair value hierarchy as defined in Note 2.

The fair values of the Company's pension plan assets as of December 31, 2009 are as follows (in thousands):

	Balance as of December 31, 2009	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets:				
Equity holdings	$ 9,906	$ —	$ 9,906	$ —
Fixed-income holdings	5,241	—	5,241	—
Alternative investments	619	—	—	619
Total pension plan assets	$ 15,766	$ —	$ 15,147	$ 619

The following table presents a reconciliation of the fair value measurements using significant unobservable inputs (Level 3) as of December 31, 2009 (in thousands):

Balance, beginning of year	$ 905
Actual return on plan assets held at reporting date	(286)
Balance, end of year	$ 619

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

12. Employee Retirement Plans (Continued)

The fair value of the real estate fund is determined by taking the appraised values of the properties on hand plus other assets and subtracting mortgage loans and other liabilities.

Postretirement benefits

The Company provides postretirement healthcare benefits for certain employee groups. The postretirement healthcare plans are contributory and contain certain other cost-sharing features such as deductibles and coinsurance. The plans are unfunded. Employees do not vest until they retire from active employment with the Company and have at least twelve years of service. These benefits can be amended or terminated at anytime and are subject to the same ongoing changes as our healthcare benefits for employees with respect to deductible, co-insurance and participant contributions.

Effective January 1, 2004, the postretirement healthcare benefits were extended to all active employees of the Company as of December 31, 2003. The period of coverage was reduced and the retiree contribution percentage was increased in order to keep the cost of the plan equivalent to the previous plan design.

Maximum coverage under the plan is limited to ten years. All benefits terminate upon the death of the retiree. Employees who began working for the Company after December 31, 2003, are not eligible for postretirement healthcare benefits.

The reconciliation of the beginning and ending balances of the projected benefit obligation for the Company consisted of the following:

	December 31	
	2009	2008
Change in projected benefit obligation:		
Benefit obligation at beginning of year	$ 7,155	$ 7,221
Service cost	305	331
Interest cost	420	423
Participant contributions	86	77
Changes in actuarial assumptions	701	(357)
Benefits paid	(469)	(540)
Projected benefit obligation at end of year	$ 8,198	$ 7,155
Amounts recognized in the consolidated balance sheets consisted of:		
Accrued expenses and other current liabilities	$ 350	$ 335
Retiree health benefit obligation	7,848	6,820
	$ 8,198	$ 7,155

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

12. Employee Retirement Plans (Continued)

The assumed discount and healthcare cost trend rates are summarized as follows:

	December 31		
	2009	2008	2007
Discount rate	6.00%	6.00%	6.00%
Immediate healthcare cost trend rate	9.00	8.50	9.00
Ultimate healthcare cost trend rate	5.00	5.00	5.00
Assumed annual reduction in trend rate	0.50	0.50	0.50
Participation	80.00	80.00	80.00

A one percentage point change in the healthcare cost trend rate would have the following effect at December 31, 2009:

	1% Increase	1% Decrease
Effect on total service and interest cost	$ 120	$ (101)
Effect on postretirement benefit obligation	1,002	(855)

Amounts included in other comprehensive loss, net of tax, at December 31, 2009, which have not yet been recognized in net periodic pension cost, were net actuarial gain (loss) of $(4,031) and $94 for the pension plans and postretirement healthcare benefits, respectively. The estimated actuarial gain (loss) for the defined benefit plans that will be amortized from accumulated other comprehensive loss into net period pension cost during 2010 are $(204) and $8 for the pension plans and postretirement healthcare benefits, respectively.

As discussed in Note 2, during the year ended December 31, 2008 the Company adopted the guidance originally issued under FAS No. 158 (codified under ASC 715-20) to measure the funded status of the plan as of its year end, December 31 versus the previous measurement date of October 1. Upon adoption of this requirement, the Company recorded a reduction to retained earnings of $114 net of tax of $68 and an increase to accumulated other comprehensive loss of $1,642, net of tax of $896.

Defined contribution plan

The Company has a defined contribution plan, which qualifies under Section 401(k) of the Internal Revenue Code that provides substantially all employees an opportunity to accumulate personal funds for their retirement. Contributions are made on a before-tax basis to these plans.

As determined by the provisions of the plan, the Company matches a portion of the employees' basic voluntary contributions. The Company matching contributions to the plan were approximately $137, $140 and $138 for the years ended December 31, 2009, 2008 and 2007, respectively.

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

13. Stock-Based Compensation

In 2004, the Company adopted a stock option plan, the 2004 Stock Incentive Plan (the "2004 Stock Plan"). Under the 2004 Stock Plan, the Company may grant stock options exercisable for shares of the Company's common stock to members of the Board of Directors, officers and key employees. A total of 68,345 shares of common stock are reserved for issuance under the 2004 Stock Plan. Options vest ratably over five years and expire 10 years from the date of grant.

The following table summarizes information with respect to the Company's stock option activity under the 2004 Stock Plan for the years ended December 31, 2009, 2008 and 2007:

	2009		2008		2007	
	Options	Weighted average exercise price	Options	Weighted average exercise price	Options	Weighted average exercise price
Outstanding—beginning of year	38,255	$ 100.00	44,585	$ 100.00	51,962	$ 100.00
Granted	—	—	—	—	5,000	$ 100.00
Canceled	(3,763)	—	(6,330)	—	(3,502)	—
Exercised	—	—	—	—	(8,875)	$ 100.00
Outstanding—end of year	34,492	$ 100.00	38,255	$ 100.00	44,585	$ 100.00
Exercisable—end of year	31,492	$ 100.00	27,775	$ 100.00	26,828	$ 100.00

As of December 31, 2009, 2008 and 2007, the weighted-average remaining contractual life of all outstanding options was 4.8, 5.8 and 6.8 years, respectively. As of December 31, 2009, 2008 and 2007, the weighted-average remaining contractual life of all exercisable options was 4.6, 5.5 and 6.5 years, respectively.

The aggregate intrinsic value of the options at December 31, 2009 was $6,752 and $6,165 for options outstanding and exercisable, respectively. There were no options exercised for the years ended December 31, 2009 and 2008. The aggregate intrinsic value of stock options exercised during 2007 was $1,737.

For purposes of computing compensation costs of stock options granted, the fair value of each stock option grant was estimated on the date of grant using the minimal value method for grants prior to January 1, 2006 and the Black Scholes method for grants after January 1, 2006.

During 2007, the Company granted 5,000 stock options with a fair value of $19.31 per option. The Company used the following assumptions in determining the fair value of the options:

Risk free rate of return	3.25%
Volatility	54.7%
Expected Term	3 years
Dividend Yield	n/a

Stock-based compensation for the years ended December 31, 2009 and 2008 was not material. There was no stock based compensation recorded for the year ended December 31, 2006.

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

13. Stock-Based Compensation (Continued)

As of December 31, 2009 and 2008, the Company has stockholders' notes receivable with recourse of $1,013 and $1,116 including accrued interest, respectively, related to the exercise of options, which are included as a component of stockholders' equity. The stockholders' notes receivable are payable in 2014 and bear interest of 5%.

14. Earnings Per Share

Basic earnings per share of common stock are computed by dividing net income (loss) by the weighted average number of common shares outstanding during the period. Diluted earnings per share of common stock are computed by dividing net income by the weighted average number of common shares and common stock equivalents related to the assumed exercise of stock options, using the treasury stock method. Stock options for which the exercise price exceeds the average fair value have an anti-dilutive effect on earnings per share and are excluded from the calculation. There were no shares excluded from diluted earnings per share for the years ended December 31, 2009 and 2008 and 44,585 shares were excluded from diluted earnings per share as the shares would be anti-dilutive for the year ended December 31, 2007, as the Company incurred a net loss for that year.

The following weighted average shares were used to calculate basic and diluted earnings per share for the year ended December 31, 2009, 2008 and 2007:

	December 31		
	2009	2008	2007
Basic weighted average common shares outstanding	607,304	615,236	609,220
Incremental shares applicable to common stock options	13,698	15,193	—
Diluted weighted average common shares outstanding	621,002	630,429	609,220

The deferred common stock units are convertible to common stock upon (i) the earlier of the qualified initial public offering date of the Company's common stock or the expiration of the lock-up agreement entered into in connection with the qualified initial public offering or (ii) a change of control. The impact of the conversion of the deferred common stock units is excluded from diluted earnings per share calculations for all years presented, as this contingent event did not occur by the end of the respective reporting periods. The number of shares of common stock that would be issued upon the expiration of the lock-up agreement entered into in connection with a qualified initial public offering or change in control is 7,340 shares for all years presented.

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

14. Earnings Per Share (Continued)

The following reflects the pro forma weighted average shares that were used to calculate pro forma basic and diluted earnings per share as a result of the 23.75 for 1.00 stock split of the Company's common stock to occur immediately prior to the completion of this offering:

	2009	2008	2007
Pro forma weighted average common shares outstanding	14,423,470	14,611,855	14,468,975
Pro forma incremental shares applicable to common stock options	325,328	360,834	—
Pro forma diluted weighted average common shares outstanding	14,748,798	14,792,689	14,468,975

15. Commitments and Contingencies

In the ordinary course of business, the Company is engaged in various litigation including product liability and intellectual property disputes. However, the Company does not believe that any pending litigation will have a material adverse effect on its consolidated financial position, consolidated results of operations or liquidity. In addition, the Company is not currently a party to any environmental-related claims or legal matters.

16. Redeemable stock and stockholders' equity

Series A Redeemable Convertible Preferred Stock

The authorized capital stock of the Company includes 100,000 shares of preferred stock, of which 65,000 shares have been designated as Series A preferred stock ("Series A"). All shares of Series A have been redeemed and therefore no shares of Series A were issued and outstanding as of December 31, 2009 and 2008. The par value of Series A is $0.01 per share.

The Series A is non-voting except as required by Delaware law, and Series A stockholders do not have the right to elect any members of the Company's Board of Directors. The Series A ranks senior to the Series B and C preferred stock and common stock related to dividend rights and distributions upon liquidation, dissolution or winding up of the Company. Dividends accrue on the Series A at a rate of 10% per annum on the stated value of the Series A plus 10% of the aggregate of all annual dividends that a holder of Series A will have become entitled to receive but which has not been declared and paid by the Company. The Company accretes dividends based on the terms of the Series A set forth in the Company's certificate of incorporation.

The Series A is subject to redemption at anytime, in whole or in part, at the option of the Board of Directors, which is controlled by the preferred stockholders and thus outside the control of the Company, at a redemption price per share equal to Series A stated value of $1,000 per share plus all accrued but unpaid cumulative dividends.

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

16. Redeemable stock and stockholders' equity (Continued)

Series B Redeemable Preferred Stock

One share of preferred stock has been designated as Series B preferred stock ("Series B") and is issued and outstanding as of December 31, 2009 and 2008. The par value of Series B is $0.01 per share.

In addition to any voting rights to which the holders of the Series B may be entitled by law, so long as the Series B remains outstanding, the holder of the share, voting as a single series, are entitled to elect four directors to the Company's Board of Directors. The Series B ranks junior to the Series A, on parity with the Series C preferred stock and senior to the common stock as to dividend rights and distributions upon liquidation, dissolution or winding up of the Company. The holder of Series B is not entitled to receive dividends. However, subject to certain exceptions, so long as any shares of Series B or Series C preferred stock are outstanding, the Company may not pay dividends or make other distributions with respect to its junior securities (including common stock). This dividend restriction may be waived by the affirmative vote of a majority of the outstanding shares of Series B and Series C preferred stock, voting as a single class.

The Series B is subject to mandatory redemption at any time the holder's ownership of both preferred stock and common stock falls below certain percentages. The fixed redemption price per share is $1,000 per share, which equals the initial amount paid for the share. At the time of any such redemption, any members of the Company's Board of Directors elected by the Series B shall cease to be members of the Board without further action of any kind by the Company or its stockholders.

Series C Redeemable Preferred Stock

One share of preferred stock has been designated as Series C preferred stock ("Series C") and is issued and outstanding as of December 31, 2009 and 2008. The par value of Series C is $0.01 per share.

In addition to any voting rights to which the holders of the Series C may be entitled by law, so long as the Series C remains outstanding, the holder of the share, voting as a single series, is entitled to elect two directors to the Company's Board of Directors. The Series C ranks junior to the Series A, on a parity with the Series B preferred stock and senior to the common stock as to dividend rights and distributions upon liquidation, dissolution or winding up of the Company. The holder of Series C is not entitled to receive dividends. However, subject to certain exceptions, so long as any shares of Series B or Series C preferred stock are outstanding, the Company may not pay dividends or make other distributions with respect to its junior securities (including common stock). This dividend restriction may be waived by the affirmative vote of a majority of the outstanding shares of Series B and Series C preferred stock, voting as a single class.

The Series C is subject to mandatory redemption at any time the holder's beneficial ownership of both preferred stock and common stock falls below certain percentages. The fixed redemption price per share is $1,000 per share, which equals the initial amount paid for the share. At the time of any such redemption, any members of the Company's Board of Directors elected by the Series C shall cease to be members of the Board without further action of any kind by the Company or its stockholders.

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

16. Redeemable stock and stockholders' equity (Continued)

Common Stock

The Company has 1,000,000 shares of common stock authorized, of which 607,231 and 608,605 were issued and outstanding as of December 31, 2009 and 2008, respectively. The par value of the common stock is $0.01 per share.

The holders of common stock are entitled to one vote per share on all matters submitted to a vote of stockholders. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Company, common stockholders would be entitled to share ratably in the Company's assets and funds remaining after payment of liabilities and after provision is made for each class of stock having preference over the Company's common stock, including Series A, B and C preferred stock.

Deferred Stock Plan

The Company has previously issued to certain members of management deferred common stock units and deferred preferred stock units, in each case representing the right to receive less than 1% of its fully-diluted equity capitalization. These deferred units were issued in consideration for the cancellation of accrued award balances in the Douglas Dynamics, LLC Long Term Incentive Plan. Deferred units were issued at a price equal to the fair value of the common stock at the date of issuance. Deferred units have all rights of common and preferred shareholders, excluding voting rights, and convert to common and preferred stock upon a change in control, or initial public offering of the Company's stock. As of December 31, 2009 and 2008 there were no deferred preferred stock units outstanding.

As of December 31, 2009 and 2008, the Company had 7,340 deferred common stock units outstanding. Upon a change in control or initial public offering, these units would convert to 7,340 shares of common stock.

Common Stock Repurchase

During 2008, the Company entered into securities repurchase agreements with certain members of management. Pursuant to these agreements, the Company repurchased at fair value and subsequently retired 6,926 shares of common stock for aggregate consideration of $1,775, comprised of a cash payment of $1,101 and the satisfaction of $703 of promissory notes held by members of management.

On January 23, 2009, the Company entered into securities repurchase agreements with certain members of management. Pursuant to these agreements, the Company repurchased at fair value and subsequently retired 1,374 shares of common stock and 3,763 stock options in exchange for aggregate consideration of $1,137, comprised of a cash payment of $1,000 and the satisfaction of the remaining principal amount of $137 on promissory notes held by the members of management. As a result of the repurchase of stock options, the Company recorded $732 of compensation expense in the first quarter of 2009, which represented the fair value of the repurchased options.

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

17. Valuation and qualifying accounts

The Company's valuation and qualifying accounts for the years ended December 31, 2009, 2008 and 2007 are as follows: (dollars in thousands):

	Balance at beginning of year	Additions charged to earnings	Changes to reserve, net(1)	Balance at end of year
Year ended December 31, 2009				
Allowance for doubtful accounts	$ 622	$ 281	$ (148)	$ 755
Reserves for inventory	1,736	1,347	(1,153)	1,931
Valuation of deferred tax assets	1,695	84	(1,213)	566
Year ended December 31, 2008				
Allowance for doubtful accounts	$ 541	$ 271	$ (190)	$ 622
Reserves for inventory	1,741	1,296	(1,301)	1,736
Valuation of deferred tax assets	1,096	599	—	1,695
Year ended December 31, 2007				
Allowance for doubtful accounts	$ 803	$ (56)	$ (206)	$ 541
Reserves for inventory	1,768	582	(609)	1,741
Valuation of deferred tax assets	665	431	—	1,096

(1) Deductions from the allowance for doubtful accounts equal accounts receivable written off, less recoveries, against the allowance. Deductions from the reserves for inventory excess and obsolete items equal inventory written off against the reserve as items were disposed of. Deductions to the valuation of deferred tax assets relate to the reversals due to changes in management's judgments regarding the future realization of the underlying deferred tax assets.

18. Restructuring

On April 27, 2009, the Company announced a plan to close its Johnson City, Tennessee manufacturing facility and move this production to its Milwaukee, Wisconsin and Rockland, Maine facilities by mid 2010. The Company expects to realize significant annual cost savings and improved customer delivery performance as a result. The closure will result in the elimination of approximately 100 positions in Johnson City and the addition of approximately 50 positions in Rockland and approximately 35 positions in Milwaukee.

Related to the facility closure, the Company has recorded $690 for employee severance and $364 for other closure costs for the year ended December 31, 2009. The Company expects the total cost of this restructuring to be $2,288 consisting of employee termination costs of $824 and other costs of $1,464. The other costs consist principally of facility move preparation and equipment relocation costs. These costs are included in the "Selling, General and Administrative Expense" line in the Company's consolidated statements of operations.

Douglas Dynamics, Inc.

Notes to Consolidated Financial Statements (Continued)

Years ended December 31, 2009, 2008 and 2007

(in thousands except share and per share data)

18. Restructuring (Continued)

The following represents a reconciliation of changes in the restructuring reserves related to this project through December 31, 2009.

	Employee Termination Costs	Other Exit Costs	Total
Accrued restructuring reserves as of December 31, 2008	$ —	$ —	$ —
Activity during the twelve months ended December 31, 2009:			
Charges to earnings	690	364	1,054
Payments	—	(364)	(364)
Accrued restructuring reserves as of December 31, 2009	$ 690	—	$ 690

In connection with the restructuring, the Company reassessed the useful lives of its manufacturing facility and certain equipment. As a result of this assessment, the Company assigned shorter useful lives to these assets and recorded accelerated depreciation of $900 for the year ended December 31, 2009. This change in estimate reduced basic and diluted earnings per share by $1.48 and $1.45, respectively.

Based on the anticipated reduction in workforce, the Company anticipates recognizing a curtailment gain related to its other post retirement benefit plans, which will be recorded in the statements of operation when the participants are terminated. The exact amount of this gain is not known at this time. In addition, the Company anticipates recognizing a curtailment gain related to its pension plans. Because the estimated curtailment gain is less than the unrecognized actuary losses, the curtailment gain will be recorded as a component of other comprehensive income (loss).

19. Subsequent events

The Company evaluated its financial statements for subsequent events through March 8, 2010 the date the financial statements were available to be issued. The Company is not aware of any subsequent events which would require recognition or disclosure in the financial statements.

Douglas Dynamics, Inc.

PART II

INFORMATION NOT REQUIRED IN THE PROSPECTUS

ITEM 13. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION.

The table below lists various expenses, other than underwriting discounts and commissions, we expect to incur in connection with the sale and distribution of the securities being registered hereby. All the expenses are estimates, except the Securities and Exchange ("SEC") registration fee and the Financial Industry Regulatory Authority ("FINRA") filing fee. All such expenses will be borne by the Company; none of the expenses will be borne by the selling stockholders.

Type	Amount
SEC Registration Fee	$ 13,119.20
FINRA Filing Fee	18,900
NYSE Filing Fee	125,000
Legal fees and expenses	1,870,000
Accounting fees and expenses	1,300,000
Printing and engraving expenses	670,000
Transfer agent and registrar fees	3,400
Total	$ 4,000,419.20

* To be filed by amendment

ITEM 14. INDEMNIFICATION OF DIRECTORS AND OFFICERS.

Section 102 of the Delaware General Corporation Law ("DGCL"), allows a corporation to eliminate the personal liability of directors of a corporation to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except where the director breached the duty of loyalty, failed to act in good faith, engaged in intentional misconduct or knowingly violated a law, authorized the payment of a dividend or approved a stock repurchase in violation of Delaware corporate law or obtained an improper personal benefit. The certificate of incorporation that we plan to adopt prior to the consummation of this offering (such certificate of incorporation being "our new certificate of incorporation") will include a provision that eliminates the personal liability of our directors for monetary damages to the extent permitted by Section 102 of the DGCL.

Section 145 of the DGCL provides for the indemnification of officers, directors and other corporate agents in terms sufficiently broad to indemnify such persons under circumstances for liabilities (including reimbursement for expenses incurred) arising under the Securities Act of 1933, as amended (the "Securities Act").

The bylaws that we intend to adopt prior to the consummation of this offering (such bylaws being "our new bylaws") will provide for indemnification of our officers, directors, employees and agents to the extent and under the circumstances permitted under the DGCL.

In addition to the indemnification to be provided by our new bylaws, prior to the consummation of this offering, we will enter into agreements to indemnify our directors and executive officers. These agreements, subject to certain exceptions, will require us to, among other things, indemnify these directors and executive officers for certain expenses, including attorney fees, witness fees and expenses, expenses of accountants and other advisors, and the premium, security for and other costs relating to any bond, arising out of that person's services as a director or officer of us or any of our subsidiaries or any other company or enterprise to which the person provides services at our request.

The Underwriting Agreement to be filed as Exhibit 1.1 will provide for indemnification by the underwriters of us, our directors and officers, and by us of the underwriters, for some liabilities arising under the Securities Act, and affords some rights of contribution with respect thereto.

ITEM 15. RECENT SALES OF UNREGISTERED SECURITIES.

In the three years preceding the filing of this registration statement, we have issued the following securities that were not registered under the Securities Act. The following share numbers and dollar amounts do not give effect to the 23.75 for-one stock split of our common stock that will occur prior to the consummation of this offering.

- Since August 15, 2007, certain of our executive officers and former executive officers exercised options granted pursuant to the Douglas Dynamics, Inc. 2004 Stock Incentive Plan to purchase an aggregate of 8,875 shares of our common stock at an exercise price of $100 per share. Certain of our executive officers and former executive officers delivered a promissory note and pledge and security agreement to the company in respect of the aggregate exercise price of such options. See "Certain Relationships and Related Party Transactions—Promissory Notes / Pledge and Security Agreements."

The sales of the above securities were exempt from registration under the Securities Act in reliance on Rule 701 promulgated under Section 3(b) of the Securities Act as transactions pursuant to benefit plans and contracts relating to compensation.

ITEM 16. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES.

Exhibit Number	Title
1.1*	Form of Underwriting Agreement.
3.1#	Third Amended and Restated Certificate of Incorporation of Douglas Dynamics, Inc., as currently in effect.
3.2#	Amendment to Third Amended and Restated Certificate of Incorporation of Douglas Dynamics, Inc., as currently in effect.
3.3#	Form of Fourth Amended and Restated Certificate of Incorporation of Douglas Dynamics, Inc., to be in effect upon consummation of this offering.
3.4#	Amended and Restated Bylaws of Douglas Dynamics, Inc., as currently in effect.
3.5#	First Amendment to Amended and Restated Bylaws of Douglas Dynamics, Inc., as currently in effect.
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4.1#	Form of Common Stock Certificate.
4.2#	Indenture, dated as of December 16, 2004, among Douglas Dynamics, L.L.C., Douglas Dynamics Finance Company, Douglas Dynamics, Inc. and U.S. Bank National Association.
4.3#	First Supplemental Indenture, dated as of June 28, 2005, among Fisher, LLC, Douglas Dynamics, L.L.C., Douglas Dynamics Finance Company, Douglas Dynamics, Inc. and U.S. Bank National Association.
4.4#	Form of Global Note for Douglas Dynamics, L.L.C. and Douglas Dynamics Finance Company 7¾% senior notes due 2012.

Exhibit Number	Title
4.5#	Form of Douglas Holdings, Inc. Guarantee for Douglas Dynamics, L.L.C. and Douglas Dynamics Finance Company 7 3/4% senior notes due 2012.
5.1#	Opinion of Gibson, Dunn & Crutcher LLP.
10.1*	Amendment No. 2 to Senior Secured Term Credit and Guaranty Agreement, dated as of April 16, 2010 by and among Douglas Dynamics, L.L.C. and each of the lenders party thereto (including as Exhibit A thereto Senior Secured Term Credit and Guaranty Agreement, dated as of May 21, 2007, by and among Douglas Dynamics, Inc., Douglas Dynamics, L.L.C., Fisher, LLC and Douglas Dynamics Finance Company, the banks and financial institutions party thereto and Credit Suisse, Cayman Islands Branch as administrative agent as amended by Amendment No. 1, dated as of December 19, 2008 and Amendment No. 2, dated as of April 16, 2010).
10.2*	Exhibits and Schedules to Senior Secured Term Credit and Guaranty Agreement, dated as of May 21, 2007, by and among Douglas Dynamics, Inc., Douglas Dynamics, L.L.C., Fisher, LLC and Douglas Dynamics Finance Company, the banks and financial institutions party thereto and Credit Suisse, Cayman Islands Branch as administrative agent as amended by Amendment No. 1, dated as of December 19, 2008 and Amendment No. 2, dated as of April 16, 2010.
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10.5#	Employment Agreement between Robert McCormick and Douglas Dynamics, Inc., dated September 7, 2004, as amended by that certain amendment, dated as of October 1, 2008.
10.6#	Form of Amendment No. 2 to Employment Agreement between Robert McCormick and Douglas Dynamics, Inc.
10.7#	Employment Agreement between James L. Janik and Douglas Dynamics, Inc., dated March 30, 2004.
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10.9#	Employment Agreement between Mark Adamson and Douglas Dynamics, Inc., dated August 27, 2007.
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10.16#	Form of Douglas Dynamics, Inc. Amended and Restated 2004 Stock Incentive Plan.
10.17#	Form of Management Incentive Option Agreement under Douglas Dynamics, Inc. 2004 Stock Incentive Plan.
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10.23#	Amended and Restated Management Incentive Option Agreement under Douglas Dynamics, Inc. 2004 Stock Incentive Plan between Douglas Dynamics, Inc. and James L. Janik, dated March 31, 2004.
10.24#	Form of Second Amended and Restated Management Incentive Option Agreement under Douglas Dynamics, Inc. Amended and Restated 2004 Stock Incentive Plan between Douglas Dynamics, Inc. and James L. Janik.
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10.29#	Douglas Dynamics, L.L.C. Annual Incentive Plan 2009.
10.30#	Douglas Dynamics, L.L.C. Long Term Incentive Plan 2009.
10.31#	Douglas Dynamics, Inc. Liquidity Bonus Plan.
10.32*	Douglas Dynamics, Inc. 2010 Stock Incentive Plan.

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10.36#	Form of Nonqualified Stock Option Agreement under Douglas Dynamics, Inc. 2010 Stock Incentive Plan.
10.37#	Form of Incentive Stock Option Agreement under 2010 Stock Incentive Plan.
10.38#	Second Amended and Restated Securityholders Agreement among Douglas Dynamics, Inc. and certain of its stockholders, optionholders and warrantholders, dated June 30, 2004.
10.39#	First Amendment to Second Amended and Restated Securityholders Agreement among Douglas Dynamics, Inc. and certain of its stockholders, optionholders and warrantholders, dated December 27, 2004.
10.40*	Form of Second Amendment to Second Amended and Restated Securityholders Agreement among Douglas Dynamics, Inc. and certain of its stockholders, optionholders and warrantholders.
10.41#	Amended and Restated Joint Management Services Agreement among Douglas Dynamics, Inc., Douglas Dynamics, L.L.C., Aurora Management Partners LLC and ACOF Management, L.P. dated as of April 12, 2004.
10.42#	Form of Second Amended and Restated Joint Management Services Agreement among Douglas Dynamics, Inc., Douglas Dynamics, L.L.C., Aurora Management Partners LLC, and ACOF Management, L.P.
10.43#	Form of Director and Officer Indemnification Agreement.
21.1#	Subsidiaries of Douglas Dynamics, Inc.
23.1#	Consent of Gibson, Dunn & Crutcher, LLP (included as part of Exhibit 5.1)
23.2*	Consent of Ernst & Young LLP.
24.1#	Power of Attorney (included on signature page of Registration Statement hereto).

* Filed herewith

** To be filed by amendment

Previously filed

ITEM 17. UNDERTAKINGS.

The undersigned registrant hereby undertakes to provide to the underwriters at the closing specified in the underwriting agreement, certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

Insofar as indemnification for liabilities arising under the Securities Act of 1933, or the Act, may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the

event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

The undersigned registrant hereby undertakes that:

(a) For purposes of determining any liability under the Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Act shall be deemed to be part of this registration statement as of the time it was declared effective; and

(b) For the purpose of determining any liability under the Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof; and

(c) For the purpose of determining liability under the Act to any purchaser, each prospectus filed pursuant to Rule 424(b) as part of a registration statement relating to an offering, other than registration statements relying on Rule 430B or other than prospectuses filed in reliance on Rule 430A, shall be deemed to be part of and included in the registration statement as of the date it is first used after effectiveness. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such date of first use; and

(d) For the purpose of determining liability of the registrant under the Act to any purchaser in the initial distribution of the securities: The undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

i. Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;

ii. Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;

iii. The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and

iv. Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant has duly caused this Amendment No. 6 to Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Milwaukee, Wisconsin, on April 29, 2010.

DOUGLAS DYNAMICS, INC.

By: /s/ JAMES L. JANIK

James L. Janik
President and Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, the following persons have signed this Amendment No. 6 to Registration Statement in the capacities and on the date indicated.

*	President and Chief Executive Officer (Principal Executive Officer) and Director	April 29, 2010
James L. Janik		
*	Vice President and Chief Financial Officer (Principal Financial Officer)	April 29, 2010
Robert McCormick		
*	Controller	April 29, 2010
Robert Young		
*	Director	April 29, 2010
Mark Rosenbaum		
*	Director	April 29, 2010
Michael Marino		
*	Director	April 29, 2010
Jack O. Peiffer		
*	Director	April 29, 2010
Michael W. Wickham		
*	Director	April 29, 2010
Nav Rahemtulla		
*	Director	April 29, 2010
Jeffrey Serota		

*By: /s/ JAMES L. JANIK

James L. Janik
Attorney-in-Fact

EXHIBIT INDEX

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23.1#	Consent of Gibson, Dunn & Crutcher, LLP (included as part of Exhibit 5.1)
23.2*	Consent of Ernst & Young LLP.
24.1#	Power of Attorney (included on signature page of Registration Statement hereto).

* Filed herewith

** To be filed by amendment

Previously filed

Exhibit 1.1

FORM OF UNDERWRITING AGREEMENT

10,000,000 Shares

DOUGLAS DYNAMICS, INC.

Common Stock

UNDERWRITING AGREEMENT

May , 2010

CREDIT SUISSE SECURITIES (USA) LLC
OPPENHEIMER & CO. INC.,
As Representatives of the Several Underwriters,
c/o Credit Suisse Securities (USA) LLC
Eleven Madison Avenue,
New York, N.Y. 10010-3629

Dear Sirs:

1. *Introductory*. Douglas Dynamics, Inc., a Delaware corporation ("**Company**") agrees with the several Underwriters named in Schedule A hereto ("**Underwriters**") to issue and sell to the Underwriters 4,900,000 shares of its common stock, par value $0.01 per share ("**Securities**"), and the stockholders listed in Schedule B hereto ("**Selling Stockholders**") agree severally with the Underwriters to sell to the Underwriters an aggregate of 5,100,000 outstanding shares of the Securities (such 10,000,000 shares of Securities being hereinafter referred to as the "**Firm Securities**"). Certain of the Selling Stockholders also agree to sell to the Underwriters, at the option of the Underwriters, an aggregate of not more than 1,500,000 additional outstanding shares of the Securities (such additional shares collectively, the "**Optional Securities**"), as set forth below. The Firm Securities and the Optional Securities are herein collectively called the "**Offered Securities**". As part of the offering contemplated by this Agreement, Credit Suisse Securities (USA) LLC (the "**Designated Underwriter**" or "**Credit Suisse**") has agreed to reserve out of the Firm Securities purchased by it under this Agreement, up to 245,000 shares, for sale to the Company's directors, officers, employees and other parties associated with the Company (collectively, "**Participants**"), as set forth in the Final Prospectus (as defined herein) under the heading "Underwriting" (the "**Directed Share Program"**). The Firm Securities to be sold by the Designated Underwriter pursuant to the Directed Share Program (the "**Directed Shares"**) will be sold by the Designated Underwriter pursuant to this Agreement at the public offering price. Any Directed Shares not subscribed for by the end of the business day on which this Agreement is executed will be offered to the public by the Underwriters as set forth in the Final Prospectus.

2. *Representations and Warranties of the Company and the Selling Stockholders.* (a) The Company represents and warrants to, and agrees with, the several Underwriters that:

(i) *Filing and Effectiveness of Registration Statement; Certain Defined Terms.* The Company has filed with the Commission a registration statement on Form S-1 (No. 333-164590) covering the registration of the Offered Securities under the Act, including a related preliminary prospectus or prospectuses. At any particular time, this initial registration statement, in the form then on file with the Commission, including all information contained in the registration statement (if any) pursuant to Rule 462(b) and then deemed to be a part of the initial registration statement, and all 430A Information and all 430C Information, that in any case has not then been superseded or

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modified, shall be referred to as the "**Initial Registration Statement**". The Company may also have filed, or may file with the Commission, a Rule 462(b) registration statement covering the registration of Offered Securities. At any particular time, this Rule 462(b) registration statement, in the form then on file with the Commission, including the contents of the Initial Registration Statement incorporated by reference therein and including all 430A Information and all 430C Information, that in any case has not then been superseded or modified, shall be referred to as the "**Additional Registration Statement**".

As of the time of execution and delivery of this Agreement, the Initial Registration Statement has been declared effective under the Act and is not proposed to be amended. Any Additional Registration Statement has or will become effective upon filing with the Commission pursuant to Rule 462(b) and is not proposed to be amended. No stop order suspending the effectiveness of the Initial Registration Statement or any Additional Registration Statement has been issued under the Act and no proceedings for that purpose have been instituted or are pending or, to the knowledge of the Company, are threatened by the Commission. The Offered Securities all have been or will be duly registered under the Act pursuant to the Initial Registration Statement and, if applicable, the Additional Registration Statement.

For purposes of this Agreement:

"**430A Information**", with respect to any registration statement, means information included in a prospectus and retroactively deemed to be a part of such registration statement pursuant to Rule 430A(b).

"**430C Information**", with respect to any registration statement, means information included in a prospectus then deemed to be a part of such registration statement pursuant to Rule 430C.

"**Act**" means the Securities Act of 1933, as amended.

"**Applicable Time**" means **[ ]**:00 [a/p]m (Eastern time) on the date of this Agreement.

"**Closing Date"** has the meaning defined in Section 3 hereof.

"**Commission**" means the Securities and Exchange Commission.

"**Effective Time**" with respect to the Initial Registration Statement or, if filed prior to the execution and delivery of this Agreement, the Additional Registration Statement means the date and time as of which such Registration Statement was declared effective by the Commission or has become effective upon filing pursuant to Rule 462(c). If an Additional Registration Statement has not been filed prior to the execution and delivery of this Agreement but the Company has advised the Representatives that it proposes to file one, "**Effective Time**" with respect to such Additional Registration Statement means the date and time as of which such Registration Statement is filed and becomes effective pursuant to Rule 462(b).

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended.

"**Final Prospectus**" means the Statutory Prospectus that discloses the public offering price, other 430A Information and other final terms of the Offered Securities and otherwise satisfies Section 10(a) of the Act.

"**General Use Issuer Free Writing Prospectus**" means any Issuer Free Writing Prospectus that is intended for general distribution to prospective investors, as evidenced by its being so specified in Schedule C to this Agreement.

"**Issuer Free Writing Prospectus**" means any "issuer free writing prospectus," as defined in Rule 433, relating to the Offered Securities in the form filed or required to be filed with the Commission or, if not required to be filed, in the form retained in the Company's records pursuant to Rule 433(g).

"**Limited Use Issuer Free Writing Prospectus**" means any Issuer Free Writing Prospectus that is not a General Use Issuer Free Writing Prospectus.

The Initial Registration Statement and the Additional Registration Statement are referred to collectively as the "**Registration Statements**" and individually as a "**Registration Statement**". A "**Registration Statement**" with reference to a particular time means the Initial Registration Statement and any Additional Registration Statement as of such time. A "**Registration Statement**" without reference to a time means such Registration Statement as of its Effective Time. For purposes of the foregoing definitions, 430A Information with respect to a Registration Statement shall be considered to be included in such Registration Statement as of the time specified in Rule 430A.

"**Rules and Regulations**" means the rules and regulations of the Commission.

"**Securities Laws**" means, collectively, the Sarbanes-Oxley Act of 2002 ("**Sarbanes-Oxley**"), the Act, the Exchange Act, the Rules and Regulations, the auditing principles, rules, standards and practices applicable to auditors of "issuers" (as defined in Sarbanes-Oxley) promulgated or approved by the Public Company Accounting Oversight Board and, to the extent such rules are applicable to the Company, the rules of the New York Stock Exchange and the NASDAQ Stock Market ("**Exchange Rules**").

"**Statutory Prospectus**" with reference to a particular time means the prospectus included in a Registration Statement immediately prior to that time, including any 430A Information or 430C Information with respect to such Registration Statement. For purposes of the foregoing definition, 430A Information shall be considered to be included in the Statutory Prospectus as of the actual time that form of prospectus is filed with the Commission pursuant to Rule 424(b) or Rule 462(c) and not retroactively.

Unless otherwise specified, a reference to a "rule" is to the indicated rule under the Act.

(ii) *Compliance with Securities Act Requirements.* (i) (A) At their respective Effective Times, (B) on the date of this Agreement and (C) on each Closing Date, each of the Initial Registration Statement and the Additional Registration Statement (if any) conformed and will conform in all material respects to the requirements of the Act and the Rules and Regulations and will not include any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, (ii) on its date, at the time of filing of the Final Prospectus pursuant to Rule 424(b) or (if no such filing is required) at the Effective Time of the Additional Registration Statement in which the Final Prospectus is included, and on each Closing Date, the Final Prospectus will conform in all respects to the requirements of the Act and the Rules and Regulations and will not include any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, and (iii) on the date of this Agreement, at their respective Effective Times or issue dates and on each Closing Date, each Registration Statement, the Final Prospectus, any Statutory Prospectus, any prospectus wrapper and any Issuer Free Writing Prospectus complied or comply, and such documents and any further amendments or supplements thereto will comply, with any applicable laws or regulations of foreign jurisdictions in which the Final Prospectus, any Statutory Prospectus, any prospectus wrapper or any Issuer Free Writing Prospectus, as amended or supplemented, if applicable, are distributed in connection with the Directed Share Program. The preceding sentence does not apply to statements in or omissions from any such document based upon written information furnished to the Company by any Underwriter through the Representatives specifically for use therein, it being understood and agreed that the only such information is that described as such in Section 9(c) hereof.

(iii) *Ineligible Issuer Status.* (i) At the time of the initial filing of the Initial Registration Statement and (ii) at the date of this Agreement, the Company was not and is not an "ineligible issuer," as defined in Rule 405, including (x) the Company or any subsidiary of the Company in the preceding three years not having been convicted of a felony or misdemeanor or having been made the subject of a judicial or administrative decree or order as described in Rule 405 and (y) the Company in the preceding three years not having been the subject of a bankruptcy petition or insolvency or similar proceeding, not having had a registration statement be the subject of a

proceeding under Section 8 of the Act and not being the subject of a proceeding under Section 8A of the Act in connection with the offering of the Offered Securities, all as described in Rule 405.

(iv) *General Disclosure Package*. As of the Applicable Time, neither (i) the General Use Issuer Free Writing Prospectus(es) issued at or prior to the Applicable Time, the preliminary prospectus, dated April 20, 2010 (which is the most recent Statutory Prospectus distributed to investors generally) and the other information, if any, stated in Schedule C to this Agreement to be included in the General Disclosure Package, all considered together (collectively, the "**General Disclosure Package**"), nor (ii) any individual Limited Use Issuer Free Writing Prospectus, when considered together with the General Disclosure Package, included any untrue statement of a material fact or omitted to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The preceding sentence does not apply to statements in or omissions from the General Disclosure Package or any Issuer Free Writing Prospectus in reliance upon and in conformity with written information furnished to the Company by any Underwriter through the Representatives specifically for use therein, it being understood and agreed that the only such information furnished by any Underwriter consists of the information described as such in Section 9(c) hereof.

(v) *Issuer Free Writing Prospectuses*. Each Issuer Free Writing Prospectus, as of its issue date and at all subsequent times through the completion of the public offer and sale of the Offered Securities or until any earlier date that the Company notified or notifies Credit Suisse as described in the next sentence, did not, does not and will not include any information that conflicted, conflicts or will conflict with the information then contained in the Registration Statement. If at any time following issuance of an Issuer Free Writing Prospectus there occurred or occurs an event or development as a result of which such Issuer Free Writing Prospectus conflicted or would conflict with the information then contained in the Registration Statement or as a result of which such Issuer Free Writing Prospectus, if republished immediately following such event or development, would include an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, (i) the Company has promptly notified or will promptly notify Credit Suisse and (ii) the Company has promptly amended or will promptly amend or supplement such Issuer Free Writing Prospectus to eliminate or correct such conflict, untrue statement or omission.

(vi) *Good Standing of the Company.* The Company has been duly incorporated and is existing and in good standing under the laws of the State of Delaware, with power and authority (corporate and other) to own its properties and conduct its business as described in the General Disclosure Package; and the Company is duly

qualified to do business as a foreign corporation in good standing in all other jurisdictions in which its ownership or lease of property or the conduct of its business requires such qualification, except where the failure to be so qualified would not, individually or in the aggregate, result in a material adverse effect on the condition (financial or otherwise), results of operations, business, properties or prospects of the Company and its subsidiaries taken as a whole ("**Material Adverse Effect**").

(vii) *Subsidiaries.* Each subsidiary of the Company has been duly organized or incorporated and is existing and in good standing under the laws of the jurisdiction of its incorporation or organization, with power and authority (corporate and other) to own its properties and conduct its business as described in the General Disclosure Package; and each such subsidiary of the Company is duly qualified to do business as a foreign corporation in good standing in all other jurisdictions in which its ownership or lease of property or the conduct of its business requires such qualification except where the failure to be so qualified would not, individually or in the aggregate, result in a Material Adverse Effect; all of the issued and outstanding capital stock of each subsidiary of the Company has been duly authorized and validly issued and is fully paid and nonassessable; and the capital stock of each subsidiary owned by the Company, directly or through subsidiaries, is owned free from liens, encumbrances and defects. Except as disclosed in the General Disclosure Package, no subsidiary of the Company is subject to any restrictions on its ability to pay dividends or make distributions

permitted by applicable law on any capital stock of such subsidiary. Schedule D hereto contains a true and complete list of all direct and indirect subsidiaries of the Company. Douglas Dynamics, L.L.C., a Delaware limited liability company, is the only "significant subsidiary" of the Company, as such term is defined in Rule 1-02 under Regulation S-X.

(viii) *Offered Securities*. The Offered Securities and all other outstanding shares of capital stock of the Company have been duly authorized; the authorized equity capitalization of the Company is as set forth in the General Disclosure Package; all outstanding shares of capital stock of the Company are, and, when the Offered Securities have been delivered and paid for in accordance with this Agreement on each Closing Date, such Offered Securities will have been, validly issued, fully paid and nonassessable, will conform in all material respects to the description of such Offered Securities contained in the General Disclosure Package and Final Prospectus; the stockholders of the Company have no preemptive rights with respect to the Securities; and none of the outstanding shares of capital stock of the Company have been issued in violation of any preemptive or similar rights of any security holder.

(ix) *No Finder's Fee.* Except as disclosed in the General Disclosure Package, there are no contracts, agreements or understandings between the Company and any person that would give rise to a valid claim against the Company or any Underwriter for a brokerage commission, finder's fee or other like payment in connection with this offering.

(x) *Registration Rights.* Except as disclosed in the General Disclosure Package, there are no contracts, agreements or understandings between the Company and any person granting such person the right to require the Company to file a registration statement under the Act with respect to any securities of the Company owned or to be owned by such person or to require the Company to include such securities in the securities registered pursuant to a Registration Statement or in any securities being registered pursuant to any other registration statement filed by the Company under the Act. (collectively, "registration rights"), and any person to whom the Company has granted registration rights has agreed not to exercise such rights until after the expiration of the Lock-Up Period referred to in Section 5(k) hereof.

(xi) *Listing.* The Offered Securities have been approved for listing on The New York Stock Exchange, subject to notice of issuance.

(xii) *Absence of Further Requirements.* No consent, approval, authorization, or order of, or filing or registration with, any person (including any governmental agency or body or any court) is required to be obtained or made by the Company for the consummation of the transactions contemplated by this Agreement in connection with the sale of the Offered Securities, except (x) such as have been obtained, or made, prior to the Closing Date, (y) for those as to which the failure to obtain or make would not, individually or in the aggregate, have an adverse effect on the ability of the Company to execute, deliver and perform this Agreement and the transactions contemplated herein, including the sale of the Offered Securities, and (z) such as may be required under state securities laws. No authorization, consent, approval, license, qualification or order of, or filing or registration with any person (including any governmental agency or body or any court) in any foreign jurisdiction is required for the consummation of the transactions contemplated by this Agreement in connection with the offering, issuance and sale of the Directed Shares under the laws and regulations of such jurisdiction except such as have been obtained, or made, prior to the Closing Date, (y) for those as to which the failure to obtain or make would not, individually or in the aggregate, have an adverse effect on the ability of the Company to execute, deliver and perform this Agreement and consummate the sale of the Directed Shares, and (z) such as may be required under state securities laws.

(xiii) *Title to Property*. Except as disclosed in the General Disclosure Package, the Company and its subsidiaries have good and marketable title to all real properties and all other properties and assets owned by them, in each case free from liens, charges, encumbrances and defects that would materially affect the value thereof or materially interfere with the use made or to be made thereof by

them and, except as disclosed in the General Disclosure Package, the Company and its subsidiaries hold any leased real or personal property under valid and enforceable leases with no terms or provisions that would individually or in the aggregate, have a Material Adverse Effect.

(xiv) *Absence of Defaults and Conflicts Resulting from Transaction.* The execution, delivery and performance of this Agreement as disclosed in the General Disclosure Package, and the issuance and sale of the Offered Securities as disclosed in the General Disclosure Package will not result in a breach or violation of any of the terms and provisions of, or constitute a default or a Debt Repayment Triggering Event (as defined below) under, or result in the imposition of any lien, charge or encumbrance upon any property or assets of the Company or any of its subsidiaries pursuant to, (i) the charter or by-laws of the Company or any of its subsidiaries, (ii) any statute, rule, regulation or order of any governmental agency or body or any court, domestic or foreign, having jurisdiction over the Company or any of its subsidiaries or any of their properties, or (iii) any agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the properties of the Company or any of its subsidiaries is subject, except, with respect to clauses (ii) and (iii) above, for such breaches, violations or defaults or such liens, charges and encumbrances which would not, individually or in the aggregate, have a Material Adverse Effect; a "**Debt Repayment Triggering Event**" means any event or condition that gives, or with the giving of notice or lapse of time would give, the holder of any note, debenture, or other evidence of indebtedness (or any person acting on such holder's behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by the Company or any of its subsidiaries.

(xv) *Absence of Existing Defaults and Conflicts.* Neither the Company nor any of its subsidiaries is (i) in violation of its respective charter, by-laws, limited liability company agreement or certificate of formation, as applicable, or (ii) in default (or with the giving of notice or lapse of time would be in default) under any existing obligation, agreement, covenant or condition contained in any indenture, loan agreement, mortgage, lease or other agreement or instrument to which any of them is a party or by which any of them is bound or to which any of the properties of any of them is subject, except such defaults that would not, individually or in the aggregate, result in a Material Adverse Effect.

(xvi) *Authorization of Agreement.* This Agreement has been duly authorized, executed and delivered by the Company.

(xvii) *Possession of Licenses and Permits.* The Company and its subsidiaries (a) possess, and are in compliance, in all material respects, with the terms of, all adequate certificates, authorizations, franchises, licenses and permits ("**Licenses**") necessary or material to the conduct of the business now conducted by them and

have not received any notice of proceedings relating to the revocation or modification of any Licenses that, if determined adversely to the Company or any of its subsidiaries, would individually or in the aggregate have a Material Adverse Effect and (b) will possess when necessary and be in compliance with, in all material respects, all Licenses necessary or material to the conduct of the business proposed to be conducted by them in the General Disclosure Package.

(xviii) *Absence of Labor Dispute.* No labor dispute with the employees of the Company or any of its subsidiaries exists or, to the knowledge of the Company, is imminent that would reasonably be expected to have a Material Adverse Effect.

(xix) *Employee Benefits*. (i) The Company and each of its subsidiaries or their "ERISA Affiliates" (as defined below) are in compliance in all respects with all presently applicable provisions of the Employee Retirement Income Security Act of 1974, as amended, including the regulations and published interpretations thereunder ("**ERISA**"); (ii) no "reportable event" (as defined in ERISA), other than events for which the 30-day notice period has been waived, has occurred within the past six years with respect to any "employee benefit plan" (as defined in ERISA) for which the Company or any of its subsidiaries or ERISA Affiliates would have any liability; (iii) the Company and each of its subsidiaries or their ERISA Affiliates have not incurred within the past

six years and do not reasonably expect to incur liability under Title IV of ERISA with respect to termination of, or withdrawal from, any "employee benefit plan"; and (iv) each "employee benefit plan" for which the Company and each of its subsidiaries or any of their ERISA Affiliates would have any liability that is intended to be qualified under Section 401(a) of the United States Internal Revenue Code of 1986, as amended, and the regulations and published interpretations thereunder (collectively the "**Code**") is so qualified and nothing has occurred, whether by action or by failure to act, which would reasonably be expected to result in the loss of such qualification; except, in each case, as would not reasonably be expected to have a Material Adverse Effect. "**ERISA Affiliate**" means, with respect to the Company or any of its subsidiaries, any member of any group of organizations described in Sections 414(b), (c), (m) or (o) of the Code of which the Company or such subsidiary is a member.

(xx) *Intellectual Property.* The Company and its subsidiaries own, possess, or have obtained valid and enforceable licenses to use sufficient trademarks, trade names, patent rights, copyrights, domain names, trade secrets, technology, know-how, and other intellectual property rights and similar rights, including registrations and applications therefor (collectively, "**Intellectual Property Rights**") necessary to conduct the business described in the General Disclosure Package in all material respects, other than trademarks, patent rights, copyrights and trade secrets of third parties that the Company infringes or has infringed in the conduct of its business to the extent that the Company does not have knowledge of such infringement. Except as disclosed in the General Disclosure Package, to the knowledge of the Company: (i) there has been no infringement, misappropriation, or other violation by third parties of any of the Intellectual Property Rights of the Company or its subsidiaries; (ii) there has been no infringement, misappropriation, or other violation by the Company or its subsidiaries of any of the Intellectual Property Rights of third parties; (iii) there is no pending or threatened action, suit, proceeding, or claim by third parties challenging the validity, enforceability, or scope of any Intellectual Property Rights owned by the Company or its subsidiaries; and (iv) there is no pending or threatened action, suit, proceeding, or claim by others challenging the Company's or any subsidiary's rights in or to, or violation of any of the terms with respect to their Intellectual Property Rights.

(xxi) *Environmental Laws.* Except as disclosed in the General Disclosure Package, neither the Company nor any of its subsidiaries is in violation of any statute, any rule, regulation, decision or order of any governmental agency or body or any court, domestic or foreign, relating to the use, disposal or release of hazardous or toxic substances or relating to the protection or restoration of the environment or human exposure to hazardous or toxic substances (collectively, "**environmental laws**"), owns or operates any real property contaminated with any substance that is subject to any environmental laws, is liable for any off-site disposal or contamination pursuant to any environmental laws, or is subject to any claim relating to any environmental laws, which violation, contamination, liability or claim would individually or in the aggregate have a Material Adverse Effect, and neither the Company nor any of its subsidiaries is aware of any pending investigation which would lead to such a claim.

(xxii) *Accurate Disclosure.* The statements in the General Disclosure Package and the Final Prospectus under the headings "Prospectus Summary—Contemplated Financing Transactions in Connection with this Offering," "Dividend Policy and Restrictions," "Description of Indebtedness," "Description of Capital Stock" and "Certain United States Federal Income Tax Considerations" insofar as such statements summarize legal matters, agreements, documents or proceedings discussed therein, are accurate in all material respects and fair summaries of such legal matters, agreements, documents or proceedings and present the information required to be shown.

(xxiii) *Absence of Manipulation.* The Company has not taken, directly or indirectly, any action that is designed to or that has constituted or that would reasonably be expected to cause or result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Offered Securities.

(xxiv) *Statistical and Market-Related Data.* Any third-party statistical and market-related data

included in a Registration Statement, a Statutory Prospectus or the General Disclosure Package are based on or derived from sources that the Company believes to be reliable and accurate.

(xxv) *Internal Controls and Compliance with the Sarbanes-Oxley Act.* Except as set forth in the General Disclosure Package, the Company is in compliance with Sarbanes-Oxley and the rules and regulations thereunder to the extent they apply to the Company. The Company will maintain, when required under Sarbanes-Oxley and the rules and regulations thereunder, a system of internal controls, including, but not limited to, disclosure controls and procedures, internal controls over accounting matters and financial reporting, an internal audit function and legal and regulatory compliance controls (collectively, "**Internal Controls**") that comply with the Securities Laws and are sufficient to provide reasonable assurances that (i) transactions are executed in accordance with management's general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with U.S. General Accepted Accounting Principles and to maintain accountability for assets, (iii) access to assets is permitted only in accordance with management's general or specific authorization, and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. The Internal Controls will be overseen by the Audit Committee (the "**Audit Committee**") of the Board in the manner and at the time required by the Exchange Rules. The Company has not publicly disclosed or reported to the Audit Committee or the Board, and within the next 135 days the Company does not reasonably expect to publicly disclose or report to the Audit Committee or the Board, a significant deficiency, material weakness, change in Internal Controls or fraud involving management or other employees who have a significant role in Internal Controls (each, an "**Internal Control Event**"), any violation of, or failure to comply with, the Securities Laws, or any matter which, if determined adversely, would have a Material Adverse Effect.

(xxvi) *Litigation*. Except as disclosed in the General Disclosure Package, there are no pending actions, suits or proceedings (including any inquiries or investigations by any court or governmental agency or body, domestic or foreign) against or affecting the Company, any of its subsidiaries or any of their respective properties that, if determined adversely to the Company or any of its subsidiaries, would individually or in the aggregate have a Material Adverse Effect, or would materially and adversely affect the ability of the Company to perform its obligations under this Agreement, or which are otherwise material in the context of the sale of the Offered Securities; and no such actions, suits or proceedings (including any inquiries or investigations by any court or governmental agency or body, domestic or foreign) are threatened or, to the Company's knowledge, contemplated.

(xxvii) *Financial Statements.* The financial statements included in each Registration Statement and the General Disclosure Package present fairly in all material

respects the financial position of the Company and its consolidated subsidiaries as of the dates shown and their results of operations and cash flows for the periods shown, and, such financial statements have been prepared in conformity with the generally accepted accounting principles in the United States applied on a consistent basis. No other financial statements or schedules of the Company or any of its subsidiaries are required by the Act or the Rules and Regulations to be included in the Registration Statement, the General Disclosure Package or the Prospectus. The statements in the Registration Statement under the caption "Recent Developments" and the General Disclosure Package with respect to the Company's revenue and net income for the quarter ended March 31, 2010 are materially accurate and materially consistent with the Company's unaudited monthly financial statements during such quarter.

(xxviii) *No Material Adverse Change in Business.* Except as disclosed in the General Disclosure Package, since the end of the period covered by the latest audited financial statements included in the General Disclosure Package (i) there has been no change, nor any development or event involving a prospective change, in the condition (financial or otherwise), results of operations, business, properties or prospects of the Company and its subsidiaries, taken as a whole, that is material and adverse, (ii) except as disclosed in or contemplated by the General Disclosure Package, there has been no dividend or distribution of any kind declared, paid or made by the Company on any class of its capital stock and (iii) except as disclosed in or contemplated by the General Disclosure Package, there has been no material adverse change in the capital stock, short-term indebtedness, long-term indebtedness, net current assets or net assets of the Company and its subsidiaries.

(xxix) *Investment Company Act.* The Company is not and, after giving effect to the offering and sale of the Offered Securities and the application of the proceeds thereof as described in the General Disclosure Package, will not be an "investment company" as defined in the Investment Company Act of 1940, as amended (the "**Investment Company Act**").

(xxx) *Ratings.* No "nationally recognized statistical rating organization" as such term is defined for purposes of Rule 436(g)(2) (i) has imposed (or has informed the Company that it is considering imposing) any condition (financial or otherwise) on the Company's retaining any rating assigned to the Company or any securities of the Company or (ii) has indicated to the Company that it is considering any of the actions described in Section 8(c)(ii) hereof.

(xxxi) *No Unlawful Payments.* Neither the Company nor any of its subsidiaries nor any director, officer, agent, employee or other person associated with or acting on behalf of the Company or any of its subsidiaries has (i) made any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee; (iii) violated or is in violation of any provision of the Foreign Corrupt Practices Act of 1977; or (iv) made any bribe, rebate, payoff, influence payment, kickback or other unlawful payment.

(xxxii) *Compliance with Money Laundering Laws.* The operations of the Company and its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, applicable money laundering statutes, and any applicable rules and regulations thereunder, issued, administered or enforced by an appropriate governmental agency (collectively, the "**Money Laundering Laws**") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened.

(xxxiii) *Compliance with OFAC.* None of the Company, any of its subsidiaries or any director, officer, agent, employee or affiliate of the Company or any of its subsidiaries is currently subject to any penalties, investigations, or enforcement actions related to U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("**OFAC**"); and the Company will not, directly or indirectly, use the proceeds of the offering of the Offered Securities hereunder, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of any person currently subject to any U.S. sanctions administered by OFAC.

(xxxiv) *Insurance*. (i) The Company and its subsidiaries are insured by insurers against such losses and risks and in such amounts as are customary and that the Company reasonably considers adequate for the business in which they are engaged; (ii) to the Company's knowledge, all material policies of insurance and fidelity or surety bonds insuring the Company or any of its subsidiaries or their respective businesses, assets, employees, officers and directors are in full force and effect, and the Company believes such policies and bonds are appropriate; (iii) to the Company's knowledge, the Company and its subsidiaries are in compliance with the terms of such policies and instruments in all material respects; and (iv) the Company has no reason to believe that it will not be able to renew or replace on comparable terms its existing material insurance coverage.

(xxxv) *Absence of Unlawful Influence.* The Company has not offered or sold, or caused the Underwriters to offer or sell, any Offered Securities to any person pursuant to the Directed Share Program with the specific intent to unlawfully influence (i) a customer or supplier of the Company to alter the customer's or supplier's level or type of business with the Company or (ii) a trade journalist or publication to write or publish favorable information about the Company or its products.

(xxxvi) *Taxes*. The Company and its subsidiaries have filed all federal, state, local and non-U.S. tax returns that are required to be filed or have requested extensions thereof (except in any case in which the failure so to file would not have a Material Adverse Effect); and, except as set forth in the General Disclosure Package, the Company and its subsidiaries have paid all taxes (including any assessments, fines or penalties) required to be paid by them, except for any such taxes, assessments, fines or penalties currently being contested in good faith or as would not, individually or in the aggregate, have a Material Adverse Effect.

(b) Each Selling Stockholder severally and not jointly represents and warrants to, and agrees with, the several Underwriters that:

(i) *Title to Securities.* Such Selling Stockholder has and on each Closing Date hereinafter mentioned will have valid and unencumbered title to the Offered Securities to be delivered by such Selling Stockholder on such Closing Date, except for such encumbrances disclosed in writing to the Representatives prior to the date of this Agreement that will be removed on or prior to the Closing Date, and full right, power and authority to enter into this Agreement and to sell, assign, transfer and deliver the Offered Securities to be delivered by such Selling Stockholder on such Closing Date hereunder; and upon the delivery of and payment for the Offered Securities on each Closing Date hereunder the several Underwriters will acquire valid and unencumbered title to the Offered Securities to be delivered by such Selling Stockholder on such Closing Date.

(ii) *Absence of Further Requirements.* No consent, approval, authorization or order of, or filing with, any person (including any governmental agency or body or any court) is required to be obtained or made by such Selling Stockholder for the consummation of the transactions contemplated by the Custody Agreement, the Power of Attorney (if executed by such Selling Stockholder) or this Agreement in connection with the offering and sale of the Offered Securities sold by such Selling Stockholder, except (i) such as have been obtained and made under the Act, (ii) such as may be required under state securities laws and (iii) those as to which the failure to obtain or make would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the ability of such Selling Stockholder to execute, deliver and perform the transactions contemplated herein, including the sale of Offered Securities by such Selling Stockholder.

(iii) *Absence of Defaults and Conflicts Resulting from Transaction.* The execution, delivery and performance of the Custody Agreement, the Power of Attorney (if executed by such Selling Stockholder) and this Agreement and the consummation of the transactions contemplated therein and herein will not result in a breach or violation of any of the terms and provisions of, or constitute a default under, or result in the imposition of any lien, charge or encumbrance upon any property or assets of such Selling Stockholder pursuant to, (i) the charter or by-laws of such Selling Stockholder that is a corporation or the constituent documents of such Selling Stockholder that is not a natural person or a corporation, (ii) any statute, rule, regulation or order of any governmental agency or body or any court having jurisdiction

over such Selling Stockholder or any of its properties, or (iii) any agreement or instrument to which such Selling Stockholder is a party or by which such Selling Stockholder is bound or to which any of the properties of such Selling Stockholder is subject, except, in the cases of clauses (ii) and (iii) above, for any breaches, violations, defaults, liens, charges or encumbrances that would not, individually or in the aggregate, have a material adverse effect on such Selling Stockholder or materially and adversely affect the ability of such Selling Stockholder to perform its obligations hereunder and under the Power of Attorney (if executed by such Selling Stockholder) and related Custody Agreement or to consummate the transactions contemplated herein, including the sale of Offered Securities by such Selling Stockholder.

(iv) *Custody Agreement*. The Power of Attorney (if executed by such Selling Stockholder) and related Custody Agreement with respect to such Selling Stockholder has been duly authorized, executed and delivered by such Selling Stockholder and constitute valid and legally binding obligations of such Selling Stockholder enforceable in accordance with their terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles.

(v) *Compliance with Securities Act Requirements*. (i) (A) At their respective Effective Times, (B) on the date of this Agreement and (C) on each Closing Date, each of the Initial Registration Statement and the Additional Registration Statement (if any) did not and will not include any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, (ii) on its date, at the time of filing of the Final Prospectus pursuant to Rule 424(b) or (if no such filing is required) at the Effective Time of the Additional Registration Statement in which the Final Prospectus is included, and on each Closing Date, the Final Prospectus will not include any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, and (iii) as of the Applicable Time, neither (x) the General Disclosure Package nor (y) any individual Limited Use Issuer Free Writing Prospectus, when considered together with the General Disclosure Package, included any untrue statement of a material fact or omitted to state any material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The preceding sentence applies only to statements in or omissions from any such document in reliance upon and in conformity with written information furnished to the Company by such Selling Stockholder specifically for use therein, it being understood and agreed that the only such information consists of information with respect to such Selling Stockholder that appears in the table and corresponding footnotes thereto (excluding any percentages) under the caption "Principal and Selling Stockholders" in the Prospectus and the General Disclosure Package (the "**Selling Stockholder Information**").

(vi) *No Undisclosed Material Information.* The sale of the Offered Securities by such Selling Stockholder pursuant to this Agreement is not prompted by any material information concerning the Company or any of its subsidiaries that is not set forth the General Disclosure Package.

(vii) *Authorization of Agreement.* This Agreement, the Custody Agreement and the Power of Attorney have been duly authorized, executed and delivered by such Selling Stockholder.

(viii) *No Finder's Fee.* Except as disclosed in the General Disclosure Package or as contemplated by this Agreement, there are no contracts, agreements or understandings between such Selling Stockholder and any person that would give rise to a valid claim against such Selling Stockholder or any Underwriter for a brokerage commission, finder's fee or other like payment in connection with this offering.

(ix) *Absence of Manipulation.* Such Selling Stockholder has not taken, directly or indirectly, any action that is designed to or that has constituted or that would reasonably be expected to cause or result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Offered Securities.

(x) *Good Standing of Selling Stockholder.* To the extent such Selling Stockholder is an entity, such Selling Stockholder is validly existing and, to the extent such concept exists in the relevant jurisdiction, in good standing under the laws of the jurisdiction of its organization.

(xi) *No Distribution of Offering Material.* Such Selling Stockholder has not distributed and will not distribute any prospectus or other offering material in connection with the offering and sale of the Offered Securities.

3. *Purchase, Sale and Delivery of Offered Securities.* On the basis of the representations, warranties and agreements and subject to the terms and conditions set forth herein, the Company and each Selling Stockholder agree, severally and not jointly, to sell to each Underwriter, and each Underwriter agrees, severally and not jointly, to purchase from the Company and each such Selling Stockholder, at a purchase price of $**[ ]** per share, that number of Firm Securities (rounded up or down, as determined by Credit Suisse in its discretion, in order to avoid fractions) obtained by multiplying 4,900,000 Firm Securities in the case of the Company and the number of Firm Securities set forth opposite the name of such Selling Stockholder in Schedule B hereto under the caption "Number of Firm Securities to be Sold," in the case of a Selling Stockholder, in each case by a fraction the numerator of which is the number of Firm

Securities set forth opposite the name of such Underwriter in Schedule A hereto and the denominator of which is the total number of Firm Securities.

Certificates in negotiable form for the Offered Securities to be sold by such Selling Stockholders hereunder have been placed in custody, for delivery under this Agreement, under a Custody Agreement made with Registrar and Transfer Company, as custodian ("**Custodian**"). Each Selling Stockholder agrees that the shares represented by the certificates held in custody for such Selling Stockholder under the applicable Custody Agreement are subject to the interests of the Underwriters hereunder, that the arrangements made by such Selling Stockholder for such custody are to that extent irrevocable, and that the obligations of such Selling Stockholder hereunder shall not be terminated by operation of law, whether by the death of such Selling Stockholder (if an individual) or the occurrence of any other event, or in the case of a trust, by the death of any trustee or trustees or the termination of such trust. If any individual Selling Stockholder or any such trustee or trustees should die, or if any other such event should occur, or if any of such trusts should terminate, before the delivery of the Offered Securities hereunder, the applicable Selling Stockholder agrees that the certificates for such Offered Securities shall be delivered by the Custodian in accordance with the terms and conditions of this Agreement as if such death or other event or termination had not occurred, regardless of whether or not the Custodian shall have received notice of such death or other event or termination.

The Company and the Custodian will deliver the Firm Securities to or as instructed by Credit Suisse for the accounts of the several Underwriters in a form reasonably acceptable to Credit Suisse against payment by the Underwriters of the purchase price in Federal (same day) funds by official bank check or checks or wire transfer to an account at a bank acceptable to Credit Suisse drawn to the order of the Company in the case of 4,900,000 shares of Firm Securities and the Custodian in the case of 5,100,000 shares of Firm Securities, at the office of Skadden, Arps, Arps, Slate, Meagher & Flom LLP located at 300 South Grand Avenue, Suite 3400, Los Angeles, CA 90071, at 12:00 P.M., New York time, on May , 2010, or at such other time not later than seven full business days thereafter as Credit Suisse and the Company determine, such time being herein referred to as the "**First Closing Date**". For purposes of Rule 15c6-1 under the Exchange Act, the First Closing Date (if later than the otherwise applicable settlement date) shall be the settlement date for payment of funds and delivery of securities for all the Offered Securities sold pursuant to the offering. The Firm Securities so to be delivered or evidence of their issuance will be made available for checking at the above office of Skadden, Arps, Arps, Slate, Meagher & Flom LLP at least 24 hours prior to the First Closing Date.

In addition, upon written notice from Credit Suisse given to the Company and the Selling Stockholders from time to time not more than 30 days subsequent to the date of the Final Prospectus, the Underwriters may purchase all or less than all of the Optional Securities at the purchase price per Security to be paid for the Firm Securities. Each Selling Stockholder agrees, severally and not jointly, to sell to the Underwriters the respective numbers of Optional Securities obtained by multiplying the number of

Optional Securities specified in such notice by a fraction the numerator of which is the number of shares set forth opposite the names of such Selling Stockholder in Schedule B hereto under the caption "Number of Optional Securities to be Sold" and the denominator of which is the total number of Optional Securities (subject to adjustment by Credit Suisse to eliminate fractions). Such Optional Securities shall be purchased from each Selling Stockholder for the account of each Underwriter in the same proportion as the number of Firm Securities set forth opposite such Underwriter's name bears to the total number of Firm Securities (subject to adjustment by Credit Suisse to eliminate fractions) and may be purchased by the Underwriters only for the purpose of covering over-allotments made in connection with the sale of the Firm Securities. No Optional Securities shall be sold or delivered unless the Firm Securities previously have been, or simultaneously are, sold and delivered. The right to purchase the Optional Securities or any portion thereof may be exercised from time to time and to the extent not previously exercised may be surrendered and terminated at any time upon notice by Credit Suisse to the Company and each Selling Stockholder.

Each time for the delivery of and payment for the Optional Securities, being herein referred to as an "**Optional Closing Date**", which may be the First Closing Date (the First Closing Date and each Optional Closing Date, if any, being sometimes referred to as a "**Closing Date**"), shall be determined by Credit Suisse but shall be not later than five full business days after written notice of election to purchase Optional

Securities is given. The Custodian will deliver the Optional Securities being purchased on each Optional Closing Date to or as instructed by Credit Suisse for the accounts of the several Underwriters in a form reasonably acceptable to Credit Suisse, against payment of the purchase price therefore in Federal (same day) funds by official bank check or checks or wire transfer to an account at a bank acceptable to Credit Suisse drawn to the order of the Custodian in the case of the Optional Securities, at the above office of Skadden, Arps, Slate, Meagher & Flom LLP. The Optional Securities being purchased on each Optional Closing Date or evidence of their issuance will be made available for checking at the above office of Skadden, Arps, Slate, Meagher & Flom LLP at a reasonable time in advance of such Optional Closing Date.

4. *Offering by Underwriters.* It is understood that the several Underwriters propose to offer the Offered Securities for sale to the public as set forth in the Final Prospectus.

5. *Certain Agreements of the Company.* The Company agrees with the several Underwriters that:

(a) *Additional Filings.* Unless filed pursuant to Rule 462(c) as part of the Additional Registration Statement in accordance with the next sentence, the Company will file the Final Prospectus, in a form approved by the Representatives, with the Commission pursuant to and in accordance with subparagraph (1) (or, if applicable and if consented to by the Representatives, subparagraph (4)) of Rule 424(b) not later than the earlier of (A) the second business day following the execution and delivery of this Agreement or (B) the fifteenth business day after the Effective Time of the Initial Registration Statement. The Company will advise the Representatives promptly of any such filing pursuant to Rule 424(b) and provide satisfactory evidence to the Representatives of such timely filing. If an Additional Registration Statement is necessary to register a portion of the Offered Securities under the Act but the Effective Time thereof has not occurred as of the execution and delivery of this Agreement, the Company will file the additional registration statement or, if filed, will file a post-effective amendment thereto with the Commission pursuant to and in accordance with Rule 462(b) on or prior to 10:00 P.M., New York time, on the date of this Agreement or, if earlier, on or prior to the time the Final Prospectus is finalized and distributed to any Underwriter, or will make such filing at such later date as shall have been consented to by the Representatives.

(b) *Filing of Amendments. Response to Commission Requests.* The Company will promptly advise the Representative of any proposal to amend or supplement at any time the Initial Registration Statement, any Additional Registration Statement or any Statutory Prospectus and will not effect such amendment or supplementation without the Representatives' consent; and the Company will also advise the Representatives promptly of (i) the effectiveness of any Additional Registration Statement (if its Effective Time is subsequent to the execution and delivery of this Agreement), (ii) any amendment or supplementation of a Registration Statement or any Statutory Prospectus, (iii) any request by the Commission or its staff for any amendment to any Registration Statement, for any supplement to any Statutory Prospectus or for any additional information, (iv) the institution by the Commission of any stop order proceedings in respect of a Registration Statement or the threatening of any proceeding for that purpose, and (v) the receipt by the Company of any notification with respect to the suspension of the qualification of the Offered Securities in any jurisdiction or the institution or threatening of any proceedings for such purpose. The Company will use its commercially reasonable efforts to prevent the issuance of any such stop order or the suspension of any such qualification and, if issued, to obtain as soon as possible the withdrawal thereof.

(c) *Continued Compliance with Securities Laws.* If, at any time when a prospectus relating to the Offered Securities is (or but for the exemption in Rule 172 would be) required to be delivered under the Act by any Underwriter or dealer, any event occurs as a result of which the Final Prospectus as then amended or supplemented would include an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, or if it is necessary at any time to amend the Registration Statement or supplement the Final Prospectus to comply with the Act, the Company will promptly notify the Representatives of such event and will promptly prepare and file with the

Commission and furnish, at its own expense, to the Underwriters and the dealers and any other dealers upon request of the Representatives, an amendment or supplement which will correct such statement or omission or an amendment which will effect such compliance. Neither the Representatives' consent to, nor the Underwriters' delivery of, any such amendment or supplement shall constitute a waiver of any of the conditions set forth in Section 8 hereof.

(d) *Rule 158.* As soon as practicable, but not later than the Availability Date (as defined below), the Company will make generally available to its security holders an earnings statement covering a period of at least 12 months beginning after the Effective Date of the Initial Registration Statement (or, if later, the Effective Time of the Additional Registration Statement) which will satisfy the provisions of Section 11(a) of the Act and Rule 158 under the Act. For the purpose of the preceding sentence, "**Availability Date**" means the day after the end of the fourth fiscal quarter following the fiscal quarter that includes such Effective Time on which the Company is required to file its Form 10-Q for such fiscal quarter except that, if such fourth fiscal quarter is the last quarter of the Company's fiscal year, "Availability Date" means the day after the end of such fourth fiscal quarter on which the Company is required to file its Form 10-K.

(e) *Furnishing of Prospectuses.* The Company will furnish to the Representatives copies of each Registration Statement (three of which will be signed and will include all exhibits), each related Statutory Prospectus, and, so long as a prospectus relating to the Offered Securities is (or but for the exemption in Rule 172 would be) required to be delivered under the Act, the Final Prospectus and all amendments and supplements to such documents, in each case in such quantities as the Representatives reasonably request. The Final Prospectus shall be so furnished on or prior to 3:00 P.M., New York time, on the business day following the execution and delivery of this Agreement. All other such documents shall be so furnished as soon as available. The Company will pay the expenses of printing and distributing to the Underwriters all such documents.

(f) *Blue Sky Qualifications.* The Company will cooperate with Credit Suisse for the qualification of the Offered Securities for sale under the laws of such jurisdictions as the Representatives reasonably designate and will continue such qualifications in effect so long as required for the distribution of the Offered Securities by the Underwriters as contemplated hereby; provided, however, that the Company shall not be obligated to file any general consent to service of process or to qualify as a foreign corporation or as a dealer in securities in any jurisdiction in which it is not so qualified or subject itself to taxation in respect of doing business in any jurisdiction in which it is not otherwise so subject.

(g) *Reporting Requirements.* During the period of five years hereafter, the Company will furnish to the Representatives and, upon request, to each of the other Underwriters, as soon as practicable after the end of each fiscal year, a copy of its annual report to stockholders for such year; and the Company will furnish to the

Representatives (i) as soon as available, a copy of each report and any definitive proxy statement of the Company filed with the Commission under the Exchange Act or mailed to stockholders, and (ii) from time to time, such other information concerning the Company as the Representatives may reasonably request. However, so long as the Company is subject to the reporting requirements of either Section 13 or Section 15(d) of the Exchange Act and is timely filing reports with the Commission on its Electronic Data Gathering, Analysis and Retrieval system ("**EDGAR**"), it is not required to furnish such reports or statements to the Underwriters.

(h) *Payment of Expenses.* The Company and each Selling Stockholder agree with the several Underwriters that the Company will pay for the following: (i) all expenses incident to the performance of the obligations of the Company under this Agreement; (ii) any filing fees and other expenses incurred in connection with qualification of the Offered Securities for sale under the laws of such jurisdictions as the Representatives reasonably designate and the preparation and printing of memoranda relating thereto (including the reasonable fees and disbursements of one counsel for the Underwriters in connection therewith); (iii) costs and expenses related to the review by the Financial Industry Regulatory Authority, Inc. of the Offered Securities (including filing fees related thereto and the reasonable fees and disbursements of one counsel for the Underwriters in connection therewith);

(iv) costs and expenses relating to investor presentations or any "road show" in connection with the offering and sale of the Offered Securities including, without limitation, any travel expenses of the Company's officers and employees and any other expenses of the Company; provided, however, that the costs of the chartering of airplanes shall be shared evenly between the Company and the Underwriters; (v) fees and expenses incident to listing the Offered Securities on the New York Stock Exchange and other national and foreign exchanges, as applicable; (vi) fees and expenses in connection with the registration of the Offered Securities under the Exchange Act; (vii) any transfer taxes on the sale by such Selling Stockholder of the Offered Securities to the Underwriters; (viii) expenses incurred in distributing preliminary prospectuses and the Final Prospectus (including any amendments and supplements thereto) to the Underwriters and for expenses incurred for preparing, printing and distributing any Issuer Free Writing Prospectuses to investors or prospective investors; and (ix) the costs and expenses described in Section 5(m). Except as otherwise provided by this Agreement, the Underwriters shall pay their own costs and expenses in connection with the transactions contemplated hereby, including, without limitation, fees and expenses of their counsel.

(i) *Use of Proceeds.* The Company will use the net proceeds received by it in connection with this offering in the manner described in the "Use of Proceeds" section of the General Disclosure Package and, except as disclosed in the General Disclosure Package, the Company does not intend to use any of the proceeds from the sale of the Offered Securities hereunder to repay any outstanding debt owed to any affiliate of any Underwriter.

(j) *Absence of Manipulation.* The Company will not take, directly or indirectly, any action designed to or that would constitute or that might reasonably be expected to cause or result in, stabilization or manipulation of the price of any securities of the Company to facilitate the sale or resale of the Offered Securities.

(k) *Restriction on Sale of Securities by Company.* For the period specified below (the "**Lock-Up Period**"), the Company will not, directly or indirectly, take any of the following actions with respect to its Securities or any securities convertible into or exchangeable or exercisable for any of its Securities ("**Lock-Up Securities**"): (i) offer, sell, issue, contract to sell, pledge or otherwise dispose of Lock-Up Securities, (ii) offer, sell, issue, contract to sell, contract to purchase or grant any option, right or warrant to purchase Lock-Up Securities, (iii) enter into any swap, hedge or any other agreement that transfers, in whole or in part, the economic consequences of ownership of Lock-Up Securities, (iv) establish or increase a put equivalent position or liquidate or decrease a call equivalent position in Lock-Up Securities within the meaning of Section 16 of the Exchange Act or (v) file with the Commission a registration statement under the Act relating to Lock-Up Securities, or publicly disclose the intention to take any such action, without the prior written consent of Credit Suisse, in each case except (A) grants of stock options, stock appreciation rights, restricted stock, restricted stock units or other stock-based awards pursuant to the Company's 2010 Stock Incentive Plan, (B) to effect the stock split described in the Prospectus and the General Disclosure Package, (C) the filing of any registration statement on Form S-8 with respect to the Company's 2010 Stock Incentive Plan or the Company's Amended and Restated 2004 Stock Incentive Plan, (D) issuances of Lock-Up Securities pursuant to the exercise, conversion or vesting of stock options, stock appreciation rights, restricted stock, restricted stock units, deferred stock units or other stock-based awards or (E) the exercise of any other employee stock options outstanding on the date hereof, in the case of each of clauses (A), (C), (D) and (E), to the extent that such plans, options or other equity awards are described in the Prospectus and the General Disclosure Package. The initial Lock-Up Period will commence on the date hereof and continue for 180 days after the date hereof or such earlier date that Credit Suisse consents to in writing; provided, however, that if (1) during the last 17 days of the initial Lock-Up Period, the Company releases earnings results or material news or a material event relating to the Company occurs or (2) prior to the expiration of the initial Lock-Up Period, the Company announces that it will release earnings results during the 16-day period beginning on the last day of the initial Lock-Up Period, then in each case the Lock-Up Period will be extended until the expiration of the 18-day period beginning on the date of release of the earnings results or the occurrence of the material news or material event, as applicable, unless Credit Suisse waives, in writing, such extension. The

Company will provide Credit Suisse with notice of any announcement described in clause (2) of the preceding sentence that gives rise to an extension of the Lock-Up Period.

(l) *Transfer Restrictions.* In connection with the Directed Share Program, the Company will take all reasonable steps to ensure that the Directed Shares will be restricted to the extent required by the FINRA or the FINRA rules from sale, transfer, assignment, pledge or hypothecation for a period of three months following the date of the effectiveness of the Registration Statement. The Designated Underwriter will notify the Company as to which Participants will need to be so restricted. The Company will direct the transfer agent to place stop transfer restrictions upon such securities for such period of time.

(m) *Payment of Expenses Related to Directed Share Program.* The Company will pay all reasonable out-of-pocket fees and disbursements of counsel (including non-U.S. counsel, if applicable) incurred by the Underwriters in connection with the Directed Share Program and stamp duties, similar taxes or duties or other taxes, if any, incurred by the Underwriters in connection with the Directed Share Program.

(n) *Compliance with Foreign Laws.* The Company will comply in all material respects with all applicable securities and other applicable laws, rules and regulations in each foreign jurisdiction in which the Directed Shares are offered in connection with the Directed Share Program.

6. *Certain Agreements of the Selling Stockholders.* Each Selling Stockholder severally and not jointly agrees with the several Underwriters that such Selling Stockholder will not take, directly or indirectly, any action designed to or that would constitute or that would reasonably be expected to cause or result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Offered Securities.

7. *Free Writing Prospectuses*. The Company and each Selling Stockholder represents and agrees that, unless they obtain the prior consent of Credit Suisse, and each Underwriter represents and agrees that, unless it obtains the prior consent of the Company and Credit Suisse, it has not made and will not make any offer relating to the Offered Securities that would constitute an Issuer Free Writing Prospectus, or that would otherwise constitute a "free writing prospectus," as defined in Rule 405, required to be filed with the Commission. Any such free writing prospectus consented to by the Company and Credit Suisse is hereinafter referred to as a "**Permitted Free Writing Prospectus**." The Company represents that it has treated and agrees that it will treat each Permitted Free Writing Prospectus as an "issuer free writing prospectus," as defined in Rule 433, and has complied and will comply with the requirements of Rules 164 and 433 applicable to any Permitted Free Writing Prospectus, including timely Commission filing where required, legending and record keeping. The Company represents that is has satisfied and agrees that it will satisfy the conditions in Rule 433 to avoid a requirement to file with the Commission any electronic road show.

8. *Conditions of the Obligations of the Underwriters.* The obligations of the several Underwriters to purchase and pay for the Firm Securities on the First Closing Date and the Optional Securities to be purchased on each Optional Closing Date will be subject to the accuracy of the representations and warranties of the Company and the Selling Stockholders herein (as though made on such Closing Date), to the accuracy of the statements of Company officers made pursuant to the provisions hereof, to the performance by the Company and the Selling Stockholders of their obligations hereunder and to the following additional conditions precedent:

(a) *Accountants' Comfort Letter.* The Representatives shall have received letters, dated, respectively, the date hereof and each Closing Date, of Ernst & Young LLP confirming that they are a registered public accounting firm and independent public accountants within the meaning of the Securities Laws and substantially in the form of Schedule E hereto (except that, in any letter dated a Closing Date, the specified date referred to in Schedule E hereto shall be a date no more than three days prior to such Closing Date).

(b) *Effectiveness of Registration Statement.* If the Effective Time of the Additional Registration Statement (if any) is not prior to the execution and delivery of this Agreement, such Effective Time shall have occurred not later than 10:00 P.M., New York time, on the date of this Agreement or, if earlier, the time the Final Prospectus is finalized and distributed to any Underwriter, or shall have occurred at such later time as shall have been consented to by the Representatives. The Final Prospectus shall have been filed with the Commission in accordance with the Rules and Regulations and Section 5(a) hereof. Prior to such Closing Date, no stop order suspending the effectiveness of a Registration Statement shall have been issued and no proceedings for that purpose shall have been instituted or, to the knowledge of any Selling Stockholder, the Company or the Representatives, shall be contemplated by the Commission.

(c) *No Material Adverse Change.* Subsequent to the execution and delivery of this Agreement, there shall not have occurred (i) any change, or any development or event involving a prospective change, in the condition (financial or otherwise), results of operations, business, properties or prospects of the Company and its subsidiaries taken as a whole which, in the judgment of the Representatives, is material and adverse and makes it impractical or inadvisable to market the Offered Securities; (ii) any downgrading in the rating of any debt securities or preferred stock of the Company by any "nationally recognized statistical rating organization" (as defined for purposes of Rule 436(g)), or any public announcement that any such organization has under surveillance or review its rating of any debt securities or preferred stock of the Company (other than an announcement with positive implications of a possible upgrading, and no implication of a possible downgrading, of such rating); (iii) any change in U.S. or international financial, political or economic conditions or currency exchange rates or exchange controls the effect of which is such as to make it, in the judgment of the Representatives, impractical to market or to enforce contracts for the sale of the Offered Securities, whether in the primary market or in respect of dealings in the secondary market; (iv) any suspension or material limitation of trading in securities generally on the New York Stock Exchange, or any setting of minimum or maximum prices for trading on such exchange; (v) or any suspension of trading of any securities of the Company on any exchange or in the over-the-counter market; (vi) any banking moratorium declared by any U.S. federal or New York authorities; (vii) any major disruption of settlements of securities, payment or clearance services in the United States or any other country where such securities are listed or (viii) any attack on, outbreak or escalation of hostilities or act of terrorism involving the United States, any declaration of war by Congress or any other national or international calamity or emergency if, in the judgment of the Representatives, the effect of any such attack, outbreak, escalation, act, declaration, calamity or emergency is such as to make it impractical or inadvisable to market the Offered Securities or to enforce contracts for the sale of the Offered Securities.

(d) *Opinion of Counsel for the Company.* The Representative shall have received an opinion and negative assurance letter, each dated as of such Closing Date, of Gibson, Dunn & Crutcher LLP, counsel for the Company, each in form and substance reasonably satisfactory to counsel for the Underwriters.

(e) *Opinions of Various Counsel for Selling Stockholders.* The Representatives shall have received an opinion, dated as of such Closing Date, from each of the following counsel in respect of their representation of certain of the Selling Stockholders: (A) Gibson, Dunn & Crutcher LLP in its capacity as counsel to certain Selling Stockholders, (B) Farella Braun + Martell LLP in its capacity as counsel to certain Selling Stockholders, (C) Dewey LeBoeuf LLP and the Deputy General Counsel to General Electric Pension Trust, each in their capacities as counsel to General Electric pension Trust, (D) Proskauer Rose LLP in its capacity as counsel to Ares Corporate Opportunities Fund, L.P. (E) Paget-Brown in its capacity as counsel to Aurora Overseas Equity Partners II, L.P., (F) Loeb & Loeb LLP in its capacity as counsel to certain of the Selling Stockholders, (G) Cummings & Lockwood LLC in its capacity as counsel to the Dale Frey Family Limited Partnership, and (H) The Law Office of Stuart D. Zimring in its capacity as counsel to the James D. and Maria D. Hodgson Inter Vivos Personal Trust, with each such opinion in form and substance reasonably satisfactory to counsel for the Underwriters.

(f) *Opinion of Counsel for Underwriters.* The Representative shall have received from Skadden, Arps, Slate, Meagher & Flom LLP ("**Skadden**"), counsel for the Underwriters, such opinion or opinions, dated such Closing Date, with respect to such matters as the Representative may require, and the Selling Stockholders and the Company shall have furnished to such counsel such documents as they request for the purpose of enabling them to pass upon such matters.

(g) *Officer's Certificate.* The Representatives shall have received a certificate, dated such Closing Date, of an executive officer of the Company and a principal financial or accounting officer of the Company in which such officers shall state on behalf of the Company in their capacities as such officers that: the representations and warranties of the Company in this Agreement are true and correct; the Company has complied with all agreements and satisfied all conditions on its part to be performed or satisfied hereunder at or prior to such Closing Date; no stop order suspending the effectiveness of any Registration Statement is in effect and no proceedings for that purpose have been instituted or, to the best of their knowledge and after reasonable investigation, are contemplated by the Commission; the Additional Registration Statement (if any) satisfying the requirements of subparagraphs (1) and (3) of Rule 462(b) was timely filed pursuant to Rule 462(b), including payment of the applicable filing fee in accordance with Rule 111(a) or (b) of Regulation S-T of the Commission; and, subsequent to the date of the most recent financial statements in the General Disclosure Package, there has been no material adverse change, nor any development or event involving a prospective material adverse change, in the condition (financial or otherwise), results of operations, business, properties or prospects of the Company and its subsidiaries taken as a whole except as set forth in the General Disclosure Package or as described in such certificate.

(h) *Lock-Up Agreements.* On or prior to the date hereof, the Representatives shall have received lock-up letters from each of the executive officers and directors of the Company who are not Selling Stockholders, each of the Selling Stockholders and the other holders of capital stock of the Company, all as listed on Schedule F hereto.

(i) *Treasury Department Reporting.* The Custodian will deliver to the Representatives a letter stating that they will deliver to each Selling Stockholder a United States Treasury Department Form 1099 (or other applicable form or statement specified by the United States Treasury Department regulations in lieu thereof) on or before January 31 of the year following the date of this Agreement.

(j) *Redemption of Notes*. On or prior to the First Closing Date, the Company shall have mailed or caused to be mailed, by first class mail, a notice of redemption to each holder of the Company's 7¾% senior notes due 2012 (the "Notes") in accordance with Section 3.3 of the Indenture, dated as of December 16, 2004, related thereto, and shall have deposited with the trustee thereof an amount in immediately available funds sufficient to effect the satisfaction and discharge of the Notes.

(k) *Amendments to Credit Facilities.* On or prior to the First Closing Date, (A) the amendments to each of (i) the $60 million senior secured revolving facility of Douglas Dynamics, L.L.C., Douglas Dynamics Finance Company and Fisher, LLC, as borrowers, and (ii) the $85 million senior secured term loan facility of Douglas Dynamics, L.L.C., Douglas Dynamics Finance Company and Fisher, LLC, as borrowers, in the forms filed as Exhibits 10.2 and 10.4 to the Registration Statement, shall have been consummated as described in the General Disclosure Package, and (B) the Company shall have received net proceeds of $40 million pursuant to an

increase in the $85 million senior secured term loan facility, as described in the General Disclosure Package.

(l) *Selling Stockholder Good Standing Certificates.* On or prior to each Closing Date, the Representatives shall have received with respect to each Selling Stockholder that is an entity, a certificate as of a recent date from the jurisdiction of organization of each Selling Stockholder confirming that such Selling Stockholder is in good standing under the laws of the jurisdiction of its organization, to the extent such concept exists in the relevant jurisdiction.

The Selling Stockholders and the Company will furnish the Representatives with conformed copies of the above opinions, certificates, letters and documents as well as copies of such other documents as the Representatives reasonably request. Credit Suisse may in its sole discretion waive on behalf of the Underwriters compliance with any conditions to the obligations of the Underwriters hereunder, whether in respect of an Optional Closing Date or otherwise.

9. *Indemnification and Contribution.* (a) *Indemnification of Underwriters by Company.* The Company will indemnify and hold harmless each Underwriter, its partners, members, directors, officers,

employees, agents, affiliates and each person, if any, who controls such Underwriter within the meaning of Section 15 of the Act or Section 20 of the Exchange Act (each an "**Indemnified Party**"), against any and all losses, claims, damages or liabilities, joint or several, to which such Indemnified Party may become subject, under the Act, the Exchange Act, other Federal or state statutory law or regulation or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in any part of any Registration Statement at any time, any Statutory Prospectus as of any time, the Final Prospectus or any Issuer Free Writing Prospectus, or arise out of or are based upon the omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any prospectus, in light of the circumstances under which they were made) not misleading, and will reimburse each Indemnified Party for any legal or other expenses reasonably incurred by such Indemnified Party in connection with investigating or defending against any loss, claim, damage, liability, action, litigation, investigation or proceeding whatsoever (whether or not such Indemnified Party is a party thereto), whether threatened or commenced, and in connection with the enforcement of this provision with respect to any of the above as such expenses are incurred; provided, however, that the Company will not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon an untrue statement or alleged untrue statement in or omission or alleged omission from any of such documents in reliance upon and in conformity with written information furnished to the Company by any Underwriter through the Representative specifically for use therein, it being understood and agreed that the only such information furnished by any Underwriter consists of the information described as such in subsection (c) below.

The Company agrees to indemnify and hold harmless the Designated Underwriter and its affiliates and each person, if any, who controls the Designated Underwriter within the meaning of either Section 15 of the Act or Section 20 of the Exchange Act (the "**Designated Entities"**), from and against any and all losses, claims, damages and liabilities (including, without limitation, any legal or other expenses reasonably incurred in connection with defending or investigating any such action or claim) (i) arising out of or based upon any untrue statement or alleged untrue statement of a material fact contained in any material prepared by or with the consent of the Company for distribution to Participants in connection with the Directed Share Program or arising out of or based upon any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (ii) arising out of or based upon the failure of any Participant to pay for and accept delivery of Directed Shares that the Participant agreed to purchase; or (iii) arising out of, related to, or in connection with the Directed Share Program, other than losses, claims, damages or liabilities (or expenses relating thereto) that are finally judicially determined to have resulted from the willful misconduct or gross negligence of the Designated Entities.

(b) *Indemnification of Underwriters by Selling Stockholders.* The Selling Stockholders, severally and not jointly, will indemnify and hold harmless each Indemnified Party, against any and all losses, claims, damages or liabilities, joint or several, to which such Indemnified Party may become subject, under the Act, the Exchange Act, other Federal or state statutory law or regulation or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in any part of any Registration Statement at any time, any Statutory Prospectus as of any time, the Final Prospectus or any Issuer Free Writing Prospectus, or arise out of or are based upon the omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any prospectus, in light of the circumstances under which they were made) not misleading, and will reimburse each Indemnified Party for any legal or other expenses reasonably incurred by such Indemnified Party in connection with investigating or defending against any loss, claim, damage, liability, action, litigation, investigation or proceeding whatsoever (whether or not such Indemnified Party is a party thereto), whether threatened or commenced, and in connection with the enforcement of this provision with respect to the above as such expenses are incurred; provided, however, that each Selling Stockholder shall be subject to such liability only to the extent that the untrue statement or alleged untrue statement or omission or alleged omission is based upon the applicable Selling Stockholder Information; and provided, further, that the liability under this subsection of each Selling Stockholder shall be limited to an amount equal to the aggregate gross proceeds after underwriting commissions and discounts, but before expenses, to such Selling Stockholder from the sale of Securities sold by such Selling Stockholder hereunder (with respect to each Selling Stockholder, such amount being referred

to herein as such Selling Stockholder's "**Sale Proceeds**").

(c) *Indemnification of Company and Selling Stockholders.* Each Underwriter will severally and not jointly indemnify and hold harmless the Company, each of its directors and each of its officers who signs a Registration Statement and each person, if any, who controls the Company within the meaning of Section 15 of the Act or Section 20 of the Exchange Act, and each Selling Stockholder and each person, if any, who controls any Selling Stockholder within the meaning of Section 15 of the Act or Section 20 of the Exchange Act (each, an "**Underwriter Indemnified Party**") against any and all losses, claims, damages or liabilities to which such Underwriter Indemnified Party may become subject, under the Act, the Exchange Act, or other Federal or state statutory law or regulation or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in any Registration Statement at any time, any Statutory Prospectus at any time, the Final Prospectus or any Issuer Free Writing Prospectus or arise out of or are based upon the omission or the alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any prospectus, in light of the circumstances under which they were made) not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in reliance upon and in conformity with written information furnished to the Company by such Underwriter through the Representatives specifically for use therein, and will reimburse each Underwriter Indemnified Party any legal or other expenses reasonably incurred by such Underwriter Indemnified Party in connection with investigating or defending against any such loss, claim, damage, liability, action, litigation, investigation or proceeding whatsoever (whether or not such Underwriter Indemnified Party is a party thereto), whether threatened or commenced, based upon any such untrue statement or omission, or any such alleged untrue statement or omission as such expenses are incurred, it being understood and agreed that the only such information furnished by any Underwriter consists of the following information under the caption "Underwriting" in the Final Prospectus furnished on behalf of each Underwriter: (i) the concession figure appearing in the fourth paragraph thereunder, (ii) the information related to discretionary accounts contained in the sixth paragraph thereunder, and (iii) the information related to stabilizing transactions, over-allotment transactions, syndicate covering transactions and penalty bids contained in the fifteenth paragraph thereunder.

(d) *Actions against Parties; Notification.* Promptly after receipt by an indemnified party under this Section of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against an indemnifying party under subsection (a), (b) or (c) above, notify the indemnifying party of the commencement thereof; but the failure to notify the indemnifying party shall not relieve it from any liability that it may have under subsection (a), (b) or (c) above except to the extent that it has been materially prejudiced (through the forfeiture of substantive rights or defenses) by such failure; and provided further that the failure to notify the indemnifying party shall not relieve it from any liability that it may have to an indemnified party otherwise than under subsection (a), (b) or (c) above. In case any such

action is brought against any indemnified party and it notifies an indemnifying party of the commencement thereof, the indemnifying party will be entitled to participate therein and, to the extent that it may wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel reasonably satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party, be counsel to the indemnifying party), and after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party will not be liable to such indemnified party under this Section for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation. Notwithstanding anything contained herein to the contrary, if indemnity may be sought pursuant to the last paragraph in Section 9(a) hereof in respect of such action or proceeding, then in addition to such separate firm for the indemnified parties, the indemnifying party shall be liable for the reasonable fees and expenses of not more than one separate firm (in addition to any local counsel) for the Designated Underwriter for the defense of any losses, claims, damages and liabilities arising out of the Directed Share Program, and all persons, if any, who control the Designated Underwriter within the meaning of either Section 15 of the Act of Section 20 of the Exchange Act. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement of any pending or threatened action in respect of which any indemnified party is or could have been a party and indemnity could have been sought hereunder by such indemnified party unless such settlement (i) includes an unconditional release of such indemnified party from all liability on any claims that

are the subject matter of such action and (ii) does not include a statement as to, or an admission of, fault, culpability or a failure to act by or on behalf of an indemnified party.

(e) *Contribution.* If the indemnification provided for in this Section is unavailable or insufficient to hold harmless an indemnified party under subsection (a), (b) or (c) above, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of the losses, claims, damages or liabilities referred to in subsection (a), (b) or (c) above (i) in such proportion as is appropriate to reflect the relative benefits received by the Company and the Selling Stockholders on the one hand and the Underwriters on the other from the offering of the Securities or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company and the Selling Stockholders on the one hand and the Underwriters on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities as well as any other relevant equitable considerations. The relative benefits received by the Company and the Selling Stockholders on the one hand and the Underwriters on the other shall be deemed to be in the same proportion as the total net proceeds from the offering (before deducting expenses) received by the Company and the Selling Stockholders bear to the total underwriting discounts and commissions received by the Underwriters. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company, the Selling Stockholders or the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such untrue statement or omission. The amount paid by an indemnified party as a result of the losses, claims, damages or liabilities referred to in the first sentence of this subsection (e) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any action or claim which is the subject of this subsection (e). Notwithstanding the provisions of this subsection (e), (i) no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Securities underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages which such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission and (ii) no Selling Stockholder shall be required to contribute any amount in excess of such Selling Stockholder's Sale Proceeds. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations in this subsection (e) to contribute are several in proportion to their respective underwriting obligations and not joint. Each Selling Stockholder's obligations in this subsection (e) to contribute are several and not joint. The Company, the Selling Stockholders and the Underwriters agree that it would not be just and equitable if contribution pursuant to this Section 9(e) were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to in this Section 9(e).

10. *Default of Underwriters*. If any Underwriter or Underwriters default in their obligations to purchase Offered Securities hereunder on either the First or any Optional Closing Date and the aggregate number of shares of Offered Securities that such defaulting Underwriter or Underwriters agreed but failed to purchase does not exceed 10% of the total number of shares of Offered Securities that the Underwriters are obligated to purchase on such Closing Date, Credit Suisse may make arrangements satisfactory to the Company and the Selling Stockholders for the purchase of such Offered Securities by other persons, including any of the Underwriters, but if no such arrangements are made by such Closing Date, the non-defaulting Underwriters shall be obligated severally, in proportion to their respective commitments hereunder, to purchase the Offered Securities that such defaulting Underwriters agreed but failed to purchase on such Closing Date. If any Underwriter or Underwriters so default and the aggregate number of shares of Offered Securities with respect to which such default or defaults occur exceeds 10% of the total number of shares of Offered Securities that the Underwriters are obligated to purchase on such Closing Date and arrangements satisfactory to Credit Suisse, the Company and the Selling Stockholders for the purchase of such Offered Securities by other persons are not made within 36 hours after such default, this Agreement will terminate without liability on the part of any non-defaulting Underwriter, the Company or any Selling Stockholder, except as provided in Section 11 (provided that if such default occurs with respect to Optional Securities after the First Closing Date, this Agreement will not terminate as to the Firm Securities or any Optional Securities

purchased prior to such termination). As used in this Agreement, the term "Underwriter" includes any person substituted for an Underwriter under this Section. Nothing herein will relieve a defaulting Underwriter from liability for its default.

11. *Survival of Certain Representations and Obligations.* The respective indemnities, agreements, representations, warranties and other statements of the Selling Stockholders, of the Company and of the several Underwriters set forth in or made pursuant to this Agreement will remain in full force and effect, regardless of any investigation, or statement as to the results thereof, made by or on behalf of any Underwriter, any Selling Stockholder, the Company or any of their respective representatives, officers or directors or any controlling person, and will survive delivery of and payment for the Offered Securities. If the purchase of the Offered Securities by the Underwriters is not consummated for any reason other than solely because of the termination of this Agreement pursuant to Section 10 hereof, the Company will reimburse the Underwriters for all reasonably documented out-of-pocket expenses (including fees and disbursements of counsel) reasonably incurred by them in connection with the offering of the Offered Securities, and the respective obligations of the Company, the Selling Stockholders and the Underwriters pursuant to Section 9 hereof shall remain in effect. In addition, if any Offered Securities have been purchased hereunder, the representations and warranties in Section 2 and all obligations under Section 5 shall also remain in effect.

12. *Notices*. All communications hereunder will be in writing and, if sent to the Underwriters, will be mailed, delivered or telegraphed and confirmed to the Representatives, c/o Credit Suisse Securities (USA) LLC, Eleven Madison Avenue, New York, N.Y. 10010-3629, Attention: LCD-IBD, or, if sent to the Company, will be mailed, delivered or telegraphed and confirmed to it at 7777 North 73rd Street, Milwaukee, WI 53223, Attention: Robert McCormick with a copy to Gibson, Dunn & Crutcher LLP, 333 South Grand Avenue, Los Angeles, CA 90071, Attention: Bruce Meyer, or, if sent to the Selling Stockholders or any of them, will be mailed, delivered or telegraphed and confirmed to Timothy Hart, Aurora Capital Group at 10877 Wilshire Boulevard, Suite 2100, Los Angeles, CA 90024, with a copy to Gibson, Dunn & Crutcher LLP, 333 South Grand Avenue, Los Angeles, CA 90071, Attention: Bruce Meyer; provided, however, that any notice to an Underwriter pursuant to Section 9 will be mailed, delivered or telegraphed and confirmed to such Underwriter.

13. *Successors*. This Agreement will inure to the benefit of and be binding upon the parties hereto and their respective personal representatives and successors and the officers and directors and controlling persons referred to in Section 8, and no other person will have any right or obligation hereunder.

14. *Representation*. The Representatives will act for the several Underwriters in connection with the transactions contemplated by this Agreement, and any action under this Agreement taken by the Representatives will be binding upon all the Underwriters.

15. *Counterparts*. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute one and the same Agreement.

16. *Absence of Fiduciary Relationship.* The Company and the Selling Stockholders acknowledge and agree that:

(a) *No Other Relationship.* The Representatives have been retained solely to act as underwriters in connection with the sale of the Offered Securities and that no fiduciary, advisory or agency relationship between the Company or the Selling Stockholders, on the one hand, and the Representatives, on the other, has been created in respect of any of the transactions contemplated by this Agreement or the Final Prospectus, irrespective of whether the Representatives have advised or are advising the Company or the Selling Stockholders on other matters;

(b) *Arms' Length Negotiations.* The price of the Offered Securities set forth in this Agreement was established by Company and the Selling Stockholders following discussions and arms-length negotiations with the Representatives and the Company and the Selling Stockholders are capable of

evaluating and understanding and understand and accept the terms, risks and conditions of the transactions contemplated by this Agreement;

(c) *Absence of Obligation to Disclose.* The Company and the Selling Stockholders have been advised that the Representatives and their affiliates are engaged in a broad range of transactions which may involve interests that differ from those of the Company or the Selling Stockholders and that the Representatives have no obligation to disclose such interests and transactions to the Company or the Selling Stockholders by virtue of any fiduciary, advisory or agency relationship; and

(d) *Waiver.* The Company and the Selling Stockholders waive, to the fullest extent permitted by law, any claims they may have against the Representatives for breach of fiduciary duty or alleged breach of fiduciary duty and agree that the Representatives shall have no liability (whether direct or indirect) to the Company or the Selling Stockholders in respect of such a fiduciary duty claim or to any person asserting a fiduciary duty claim on behalf of or in right of the Company, including stockholders, employees or creditors of the Company.

17. *Applicable Law*. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

The Company hereby submits to the non-exclusive jurisdiction of the Federal and state courts in the Borough of Manhattan in The City of New York in any suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby. The Company irrevocably and unconditionally waives any objection to the laying of venue of any suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby in Federal and state courts in the Borough of Manhattan in the City of New York and irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such suit or proceeding in any such court has been brought in an inconvenient forum.

If the foregoing is in accordance with the Representatives' understanding of our agreement, kindly sign and return to the Company one of the counterparts hereof, whereupon it will become a binding agreement among the Selling Stockholders, the Company and the several Underwriters in accordance with its terms.

Very truly yours,

DOUGLAS DYNAMICS, INC.

By: _____
Name:
Title:

SELLING STOCKHOLDERS

By: _____
Name:
Title: As Attorney-in-Fact acting on behalf of each of the Selling Stockholders named in Schedule B to this Agreement other than Ares Corporate Opportunities Fund, L.P.

The foregoing Underwriting Agreement is hereby confirmed and accepted as of the date first above written.

ARES CORPORATE OPPORTUNITIES FUND, L.P.

By: _____
Name:
Title:

CREDIT SUISSE SECURITIES (USA) LLC
OPPENHEIMER & CO, INC.
As Representatives of the Several Underwriters.

By: CREDIT SUISSE SECURITIES (USA) LLC
On behalf of the Representatives

By: _____
Name:
Title:

SCHEDULE A

Underwriter	Number of Firm Securities to be Purchased
Credit Suisse Securities (USA) LLC	
Oppenheimer & Co. Inc.	
Piper Jaffray & Co.	
Robert W. Baird & Co. Incorporated	
Total	

SCHEDULE B

Selling Stockholder	Number of Firm Securities to be Sold	Number of Optional Securities to be Sold
Aurora Equity Partners II L.P.	2,363,732	696,606
Aurora Overseas Equity Partners II, L.P.	31,376	9,247
Ares Corporate Opportunities Fund, L.P.	1,601,660	472,022
General Electric Pension Trust	738,492	217,639
James L. Janik	118,034	34,786
Robert L. McCormick	28,185	8,307
Mark Adamson	28,713	5,453
Jack O. Peiffer	11,841	3,490
Michael W. Wickham	11,841	3,490
Richard K Roeder	2,475	729
City National Bank Trustee for the Aurora Capital Group 401k Plan FBO Richard K. Roeder	1,517	447
Richard R. Crowell	5,988	1,765
City National Bank Trustee for the Aurora Capital Group 401k Plan FBO Gerald L. Parsky	9,979	2,942
City National Bank Trustee for the Aurora Capital Group 401k Plan FBO John T. Mapes	3,992	1,176
Robert Anderson Living Trust restated 2/21/06 f/b/o Kathleen Thomas	858	252
Robert Anderson, Jr. Revocable Trust, dated 2/10/97, Robert Anderson, Trustee	858	252
James D. Hodgson and Maria D. Hodgson Inter Vivos Personal Trust	399	117
James D. Hodgson	1,435	424
Dale F. Frey	1,435	424
Dale Frey Family Limited Partnership	3,992	1,176
Lawrence A. Bossidy	7,423	2,189
Douglas Dynamics Equity Partners, L.P.	11,656	3,435
James R. Roethle	35,559	10,480
Flemming H. Smitsdorff	29,125	8,583
Raymond S. Littlefield	25,883	7,628
Ralph R. Gould	23,552	6,941
Total	5,100,000	1,500,000

SCHEDULE C

1. General Use Free Writing Prospectuses (included in the General Disclosure Package)

None.

2. Other Information Included in the General Disclosure Package

The following information is also included in the General Disclosure Package:

The initial price to the public of the Offered Securities.

SCHEDULE D

SUBSIDIARIES

Douglas Dynamics, L.L.C.

Douglas Dynamics Finance Company

Fisher, LLC

SCHEDULE E

The Representatives shall have received letters, dated, respectively, the date hereof and each Closing Date, of Ernst & Young LLP confirming that they are a registered public accounting firm and independent public accountants within the meaning of the Securities Laws to the effect that:

(i) in their opinion the audited consolidated financial statements and schedules examined by them and included in the Registration Statements and the General Disclosure Package comply as to form in all material respects with the applicable accounting requirements of the Securities Laws;

(ii) they have read the unaudited consolidated financial statements of the Company and its subsidiaries for January and February of both 2009 and 2010 furnished to them by the Company and the minutes of the meetings of the stockholders, Board of Directors and committees of the Board of Directors of the Company for 2009 and 2010; and have made inquiries of certain officials of the Company who have responsibility for financial and accounting matters of the Company and its consolidated subsidiaries as to whether the unaudited consolidated financial statements referred to above are stated on a basis substantially consistent with that of the audited consolidated financial statements included in the Registration Statement and General Disclosure Package; and on the basis thereof, nothing came to their attention which caused them to believe that:

(A) with respect to the period subsequent to the date of the most recent consolidated financial statements included in the General Disclosure Package, at February 28, 2010, there was any change in capital stock, increase in long-term debt or decrease in consolidated net current assets or stockholders' equity of the Company and its consolidated subsidiaries, as compared with the amounts shown on the latest balance sheet included in the General Disclosure Package; or for the period from January 1, 2010 to February 28, 2010, there was any decreases, as compared with the corresponding period in the preceding year, in consolidated net sales or in the total consolidated income before extraordinary items or of consolidated net income of the Company and its consolidated subsidiaries, except for such changes, increases or decreases which the General Disclosure Package discloses have occurred or may occur;

(iii) With respect to any period subsequent to February 28, 2010, for which officials of the Company have advised that no consolidated financial statements as of any date or for any period subsequent to such date are available, they have made inquiries of certain officials of the Company who have responsibility for the financial and accounting matters of the Company and its consolidated subsidiaries as to whether, at a specified date not more than three business days prior to the date of such letter, there was any change in capital stock, increase in long-term debt or any decreases in consolidated net current assets or shareholder's equity of the Company and its consolidated subsidiaries, as compared with the amounts shown on the most recent balance sheet for such entities included in the General Disclosure Package; or for the period from the day after the date of the most recent financial statements for such entities included in the General Disclosure Package to such specified date, there were any decreases, as compared with the corresponding period in the preceding year, in consolidated net sales or in the total amount of consolidated net income and, on the basis of such inquiries and the review of the minutes described in paragraph (ii) above, nothing came to their attention which caused them to believe that there was any such change, increase, or decrease, except for such changes, increases or decreases set forth in such letter which the General Disclosure Package discloses have occurred or may occur; and

(iv) they have compared specified dollar amounts (or percentages derived from such dollar amounts) and other financial and statistical information contained in the Registration Statements, each Issuer Free Writing Prospectus (other than any Issuer Free Writing Prospectus that is an "electronic road show," as defined in Rule 433(h)) and the General Disclosure Package (in each case to the extent that such dollar amounts, percentages and other financial and statistical information are derived from the general accounting records of the Company and its subsidiaries or are derived directly from such records by analysis or computation) with the results obtained from inquiries, a reading of such general accounting records and other procedures specified in such letter and have found such dollar amounts, percentages and other financial and statistical information to be in agreement with such results.

For purposes of this Schedule, if the Effective Time of the Additional Registration Statement is subsequent to the execution and delivery of this Agreement, "**Registration Statements**" shall mean the Initial Registration Statement and the Additional Registration Statement as proposed to be filed shortly prior to its Effective Time.

SCHEDULE F

LOCK-UP AGREEMENTS

Executive Officers
James L. Janik
Robert L. McCormick
Mark Adamson
Keith Hagelin
Directors
Michael Marino
Jack O. Peiffer
Nav Rahemtulla
Mark Rosenbaum
Jeffrey Serota
Michael W. Wickham
Stockholders
Aurora Equity Partners II L.P.
Aurora Overseas Equity Partners II, L.P.
Ares Corporate Opportunities Fund, L.P.
General Electric Pension Trust
City National Bank Trustee for the Aurora Capital Group 401k Plan FBO Richard K. Roeder
Richard K Roeder
Richard R. Crowell
City National Bank Trustee for the Aurora Capital Group 401k Plan FBO Gerald L. Parsky
City National Bank Trustee for the Aurora Capital Group 401k Plan FBO John T. Mapes
Robert Anderson Living Trust restated 2/21/06 f/b/o Kathleen Thomas

Robert Anderson, Jr. Revocable Trust, dated 2/10/97, Robert Anderson, Trustee
James D. Hodgson and Maria D. Hodgson Inter Vivos Personal Trust
James D. Hodgson
Dale F. Frey
Dale Frey Family Limited Partnership
Lawrence A. Bossidy
Douglas Dynamics Equity Partners, L.P.
James R. Roethle
Flemming H. Smitsdorff
Raymond S. Littlefield
Ralph R. Gould

Exhibit 10.1

AMENDMENT NO. 2 TO CREDIT AGREEMENT

THIS AMENDMENT NO. 2 TO CREDIT AND GUARANTY AGREEMENT (this "Amendment"), dated as of April 16, 2010, is made and entered into among DOUGLAS DYNAMICS, L.L.C., a Delaware limited liability company (the "Borrower"), and each of the Lenders (as hereinafter defined) party hereto.

RECITALS

A. The Borrower and the Lenders party hereto are parties to that certain Credit and Guaranty Agreement dated as of May 21, 2007 (as amended by Amendment No. 1 to Credit and Guaranty Agreement, dated as of December 19, 2008 among the Borrower and each of the Lenders party thereto, the "Credit Agreement") among the Borrower, Credit Suisse AG, Cayman Islands Branch, as Administrative Agent (in such capacity, the "Administrative Agent") on behalf of the Lenders, each lender from time to time party thereto (the "Lenders") and each of the other banks, financial institutions and other entities from time to time party thereto.

B. The Borrower has requested that the Lenders agree, subject to the conditions and on the terms set forth in this Amendment, to amend certain provisions of the Credit Agreement as set forth herein.

C. The Lenders are willing to amend the Credit Agreement, subject to the conditions and on the terms set forth below.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower and each of the Lenders party hereto agree as follows:

1. Definitions. Except as otherwise expressly provided herein, capitalized terms used in this Amendment shall have the meanings given in the Amended Credit Agreement (as defined below), and the rules of interpretation set forth in the Amended Credit Agreement shall apply to this Amendment. In addition:

"Qualifying IPO" means the consummation of the first underwritten public offering of the Capital Stock (other than Disqualified Capital Stock) of Holdings following the Closing Date pursuant to a registration statement filed with the Securities and Exchange Commission in accordance with the Securities Act.

"Qualifying IPO Payment" means, concurrent with the closing of a Qualifying IPO, the one-time payment to Sponsor in connection with the termination of the Management Services Agreement in an aggregate amount not to exceed $6,000,000.

"Qualifying Preferred Stock Redemption" means, concurrent with the closing of a Qualifying IPO, the payment of $1,000 to Aurora Equity Partners II L.P. and $1,000 to Ares Limited Partnership in respect of the redemption of the one share of Series B Preferred Stock and Series C Preferred Stock held by Aurora Equity Partners II L.P. and the Ares Limited Partnership, respectively.

"Qualifying Senior Notes Redemption" means, concurrent with the closing of a Qualifying IPO, the Borrower and DD Finance (i) have given irrevocable and unconditional notice of redemption for all of the outstanding Senior Notes, (ii) have timely and irrevocably deposited or caused to be deposited with the trustee under the Senior Notes Indenture proceeds of a Qualifying IPO, proceeds of Additional Term Loans, Cash and/or Proceeds of Revolving Loans (as defined in the Revolving Credit Facility) sufficient to pay and discharge the entire indebtedness (including all principal, premium, if any, and accrued interest) on all outstanding Senior Notes and (iii) have satisfied all other conditions precedent to the discharge of the Senior Notes Indenture set forth in Section 8.8 of the Senior Notes Indenture.

2. Consent and Agreement. Notwithstanding anything to the contrary in the Credit Documents, the Lenders hereby consent to (i) the redemption of the Senior Notes by the Borrower pursuant to a Qualifying Senior Notes Redemption, (ii) the payment of the Qualifying IPO Payment and (iii) the redemption by Holdings of all preferred stock of Holdings pursuant to a Qualifying Preferred Stock Redemption. The Borrower hereby agrees to consummate a Qualifying Senior Notes Redemption concurrently with the consummation of a Qualifying IPO.

3. Amendment. Concurrently with the consummation of a Qualifying IPO, the terms and provisions of the Credit Agreement are hereby amended by replacing such terms and provisions in their entirety with the terms and provisions set forth in the Credit Agreement attached hereto as Exhibit A (the "Amended Credit Agreement").

4. Representations and Warranties. To induce the Lenders to agree to this Amendment, the Borrower represents to the Administrative Agent and the Lenders that as of the date hereof:

(a) the Borrower has all power and authority to enter into this Amendment and to carry out the transactions contemplated by, and to perform its obligations under or in respect of, this Amendment;

(b) the execution and delivery of this Amendment and the performance of the obligations of the Borrower hereunder have been duly authorized by all necessary action on the part of the Borrower;

(c) the execution and delivery of this Amendment by the Borrower, and the performance of the obligations of the Borrower hereunder do not and will not conflict with or violate (i) any provision of the articles of incorporation or bylaws (or similar constituent documents) of the Borrower, (ii) any applicable provision of any material law, statute, rule, regulation, order, writ, injunction or decree of any court or Governmental Authority or (iii) any indenture, agreement or instrument to which the Borrower is a party or by which the Borrower or any property of the Borrower, is bound, and do not and will not require any consent or approval of any Person that has not been obtained;

(d) this Amendment has been duly executed and delivered by the Borrower and the Credit Agreement and the other Credit Documents, as modified by this Amendment, are the legal, valid and binding obligations of the Borrower, enforceable in accordance with their terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law);

(e) no event has occurred and is continuing or will result from the execution and delivery of this Amendment or the consummation of a Qualifying IPO, the Qualifying IPO Payment, the Qualifying Senior Notes Redemption and/or the Qualifying Preferred Stock Redemption (in each case, after giving effect to this Amendment) that would constitute a Default or an Event of Default;

(f) since December 31, 2006, no event has occurred that has resulted, or could reasonably be expected to result, in a Material Adverse Effect;

(g) each of the representations and warranties made by the Borrower in or pursuant to the Credit Documents are true and correct in all material respects on and as of the date this representation is being made, except for representations and warranties expressly stated to relate to a specific earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date;

(h) the Borrower has obtained $40 million in Additional Term Loan Commitments; and

(i) after giving effect to (i) a Qualifying IPO, (ii) the redemption of the Senior Notes by the Borrower pursuant to the Qualifying Senior Notes Redemption, (iii) the payment of the Qualifying IPO Payment, (iv) the redemption by Holdings of all preferred stock of Holdings pursuant to the Qualifying Preferred Stock Redemption and (v) the incurrence of $40 million aggregate principal amount of Additional Term Loan Commitments, the aggregate amount of (1) Cash of the Borrower in Deposit Accounts subject to a Blocked Account Agreement and (2) Excess Availability (as defined in the Revolving Credit Facility) shall be at least $15,000,000; provided, that Excess Availability will be calculated without giving effect to any Cash.

Each Lender party to this Amendment represents and warrants to each Agent and each Lender that it has made its own independent investigation of the terms of the Credit Agreement and the Amended Credit Agreement and the facts and circumstances surrounding this Amendment, and has not relied in any way on any statement, advice or recommendation of any Agent or Lender in connection herewith. No Agent shall have any duty or responsibility, either initially or on a continuing basis, to make any such investigation on behalf of Lenders or to provide any Lender with any information, advice or recommendation with respect thereto, whether coming into its possession before the execution of this Amendment or at any time or times thereafter, and no Agent shall have any responsibility with respect to the accuracy of or the completeness of any information provided to Lenders relating to any of the foregoing.

5. Effectiveness of Amendments. This Amendment (other than Section 6 hereof which shall be effective as set forth in such Section) shall be effective as of the first date (the "Second Amendment Effective Date") on which all of the following conditions precedent have been satisfied:

(a) The Administrative Agent shall have received a counterpart signature page of this Amendment duly executed by each of the Credit Parties and the Requisite Lenders;

(b) The Administrative Agent shall have received a certificate signed by the chief financial officer of the Borrower dated the Second Amendment Effective Date, certifying (A) that the representations and warranties contained in Section 4 of this Amendment are true and correct as of the Second Amendment Effective Date and (B) that no event shall have occurred and be continuing or would result from the consummation of a Qualifying IPO, the Qualifying Senior Notes Redemption, the Qualifying Preferred Stock Redemption and/or the Qualifying IPO Payment (in each case, after giving effect to this Amendment) that would constitute a Default or an Event of Default;

(c) The Administrative Agent shall have received all fees required to be paid, and all expenses for which invoices have been presented (including the reasonable fees and expenses of legal counsel), in connection with this Amendment (or shall have made arrangements for the payment thereof satisfactory to the Administrative Agent);

(d) a Qualifying IPO shall have occurred;

(e) Borrower shall have delivered or cause to be delivered any legal opinions or other documents requested by Administrative Agent connection with the making of the Additional Term Loans;

(f) Each Credit Party shall have delivered a solvency certificate in form and substance satisfactory to the Administrative Agent; and

(g) Borrower shall pay, to each Lender executing this Amendment on or before April 16, 2010 by 12:00 p.m. New York City Time, an amendment fee equal to 0.25% of such Lender's Term Loan Exposure (before giving effect to the making of any Additional Term Loans), which amendment fee shall be payable concurrently with the consummation of the Qualifying IPO.

6. Delivery of Financial Statements. Notwithstanding the provisions set forth in Section 5.1(c) of the Credit Agreement to the contrary, the financial statements of Holdings and its Subsidiaries for the Fiscal Year ended December 31, 2009 that were delivered to the Administrative Agent prior to the date hereof shall be deemed to satisfy the requirements of Section 5.1(c) that such financial statements be of the Company and its Subsidiaries solely with respect to the Fiscal Year ended December 31, 2009. Notwithstanding the provisions set forth in Section 5.1(b) of the Credit Agreement requiring delivery of certain financial statements of the Company and its Subsidiaries, delivery of comparable financial statements of Holdings and its Subsidiaries shall be deemed to satisfy such requirement solely with respect to the Fiscal Quarters ending March 31, 2010 and June 30, 2010. Notwithstanding the provisions of Section 5 of this Amendment, the provisions of this Section 6 shall be effective immediately upon receipt by Administrative Agent of a counterpart signature page of this Amendment duly executed by each of the Credit Parties and the Requisite Lenders.

7. Miscellaneous. **THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, WITHOUT REGARD TO THE CONFLICT OF LAW RULES THEREOF (OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW).** This Amendment may be executed in one or more duplicate counterparts and when signed by all of the parties listed below shall constitute a single binding agreement. Except for the amendments set forth in Section 3 hereof and the consent set forth in Section 2 hereof, all of the provisions of the Credit Agreement and the other Credit Documents shall remain in full force and effect. The foregoing amendments shall be strictly construed in accordance with the express terms thereof. Except with respect to the matters specifically waived or amended thereby, Section 2 and 3 above shall not operate as a waiver of any right, remedy, power or privilege of any Lender or the Administrative Agent under the Credit Agreement or any other Credit Document or of any other term or condition of the Credit Agreement or any other Credit Document. This Amendment shall be deemed a "Credit Document" as defined in the Credit Agreement. Sections 10.15 and 10.16 of the Credit Agreement shall apply to this

Amendment and all past and future amendments to the Credit Agreement and other Credit Documents as if expressly set forth herein or therein.

8. Additional Term Loans. Concurrent with the occurrence of the Second Amendment Effective Date, the Persons party to a Term Loan Joinder Agreement as lenders (each an "Additional Term Loan Lender") shall make Term Loans (the "Additional Term Loans") to the Borrower in an amount equal to the amount set forth in such Additional Term Loan Lender's Term Loan Joinder Agreement (the "Additional Term Loan Commitments"); provided, that such Additional Term Loans shall be made with 1% of original issue discount, such that the amount funded on the Second Amendment Effective Date by each Lender in respect of its Additional Term Loans shall be 99% of its Additional Term Loan Commitment. The aggregate amount of the Additional Term Loan Commitments is $40,000,000. Such Additional Term Loan Commitments shall be effected pursuant to one or more Term Loan Joinder Agreements executed and delivered by Borrower, each Additional Term Loan Lender and Administrative Agent, and each of which shall be recorded in the Register and shall be subject to the requirements set forth in Section 2.19(c) of the Amended Credit Agreement. The amount of each Additional Term Loan owing to each Additional Term Loan Lender as of the Second Amendment Effective Date (before giving effect to any

subsequent repayments) shall be an amount equal to 100% of such Additional Term Loan Lender's Additional Term Loan Commitment, irrespective that the amount funded on the Second Amendment Effective Date is 99% of such Additional Term Loan Commitment. The terms of the Additional Term Loan Commitments shall be as set forth in the Amended Credit Agreement.

9. Acknowledgement and Consent.

Each Guarantor has read this Amendment and consents to the terms hereof and further hereby confirms and agrees that, notwithstanding the effectiveness of this Amendment, the obligations of such Guarantor under, and the Liens granted by such Guarantor as collateral security for the indebtedness, obligations and liabilities evidenced by the Credit Agreement and the other Credit Documents pursuant to, each of the Credit Documents to which such Guarantor is a party shall not be impaired and each of the Credit Documents to which such Guarantor is a party is, and shall continue to be, in full force and effect and is hereby confirmed and ratified in all respects. Each of Holdings, Borrower and the Guarantor Subsidiaries hereby acknowledges and agrees that the Secured Obligations under, and as defined in, the Term Pledge and Security Agreement dated as of May 21, 2007, by and among Holdings, Borrower, the Guarantor Subsidiaries and Administrative Agent (the "Pledge and Security Agreement") and, with respect to the other Collateral Documents, the Obligations secured by the Liens granted thereby, will include all Obligations under, and as defined in, the Amended Credit Agreement.

Each Guarantor acknowledges and agrees that (i) notwithstanding the conditions to effectiveness set forth in this Amendment, such Guarantor is not required by the terms of the Credit Agreement or any other Credit Document to consent to the amendments to the Credit Agreement effected pursuant to this Amendment and (ii) nothing in the Credit Agreement, this Amendment or any other Credit Document shall be deemed to require the consent of such Guarantor to any future amendments to the Credit Agreement.

10. Consent to ABL Amendment and Intercreditor Amendment.

(a) Pursuant to Section 5.3(a) of the Intercreditor Agreement, the Lenders party hereto hereby consent to (i) an amendment to the ABL Credit Agreement (as defined in the Intercreditor Agreement) in substantially the form of Exhibit B and (ii) any amendments to the other ABL Loan Documents (as defined in the Intercreditor Agreement) executed in connection therewith; and

(b) The Lenders party hereto hereby consent to the execution of an amendment to the Intercreditor Agreement in substantially the form of Exhibit C (the "Intercreditor Amendment") and hereby authorize and instruct (i) the Administrative Agent to execute the Intercreditor Amendment in its capacity as Term Administrative Agent thereunder and (ii) the Collateral Agent to execute the Intercreditor Amendment in its capacity as Term Collateral Agent thereunder.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed by their duly authorized officers as of the day and year first above written.

BORROWER:

DOUGLAS DYNAMICS, L.L.C.

By: /s/ Robert McCormick
Name: Robert McCormick
Title: VP CFO

GUARANTORS (for purposes of Section 9):

DOUGLAS DYNAMICS, INC.

By: /s/ Robert McCormick
Name: Robert McCormick
Title: VP CFO

DOUGLAS DYNAMICS FINANCE COMPANY

By: /s/ Robert McCormick
Name: Robert McCormick
Title: VP CFO

FISHER, LLC

By: /s/ Robert McCormick
Name: Robert McCormick
Title: VP CFO

Russell Investment Company plc, as a Lender

By: /s/ Michael Bishof
Name: Michael Bishof
Title: COO, Logan Circle Partners

Russell Multi-Manager Bond Fund, as a Lender

By: /s/ Michael Bishof
Name: Michael Bishof
Title: COO, Logan Circle Partners

Russell Strategic Bond Fund, as a Lender

By: /s/ Michael Bishof
Name: Michael Bishof
Title: COO, Logan Circle Partners

Russell Institutional Funds, LLC – Russell Core Bond Fund, as a Lender

By: /s/ Michael Bishof
Name: Michael Bishof
Title: COO, Logan Circle Partners

Integrys Energy Group, Inc. Retirement Plan Trust, as a Lender

By: /s/ Michael Bishof
Name: Michael Bishof
Title: COO, Logan Circle Partners

Allina Health System Trust, as a Lender

By: /s/ Michael Bishof
Name: Michael Bishof
Title: COO, Logan Circle Partners

Sunoco Inc Master Retirement Trust, as a Lender

By: /s/ Michael Bishof
Name: Michael Bishof
Title: COO, Logan Circle Partners

Atrium VI

By: Credit Suisse Alternative Capital, Inc., as collateral manager

as a Lender

By: /s/ David H. Lerner
Name: David H. Lerner
Title: Authorized Signatory

Atrium IV

as a Lender

By: /s/ David H. Lerner
Name: David H. Lerner
Title: Authorized Signatory

Madison Park Funding IV, Ltd.
By Credit Suisse Alternative Capital, Inc., as collateral manager

as a Lender

By: /s/ David H. Lerner
Name: David H. Lerner
Title: Authorized Signatory

Atrium III

as a Lender

By: /s/ David H. Lerner
Name: David H. Lerner
Title: Authorized Signatory

CSAM Funding III

as a Lender

By: /s/ David H. Lerner
Name: David H. Lerner
Title: Authorized Signatory

CSAM Funding IV

as a Lender

By: /s/ David H. Lerner
Name: David H. Lerner
Title: Authorized Signatory

Madison Park Funding I, Ltd,

as a Lender

By: /s/ David H. Lerner
Name: David H. Lerner
Title: Authorized Signatory

Madison Park Funding III, Ltd.
By Credit Suisse Alternative Capital, Inc., as collateral manager

as a Lender

By: /s/ David H. Lerner
Name: David H. Lerner
Title: Authorized Signatory

Madison Park Funding VI, Ltd.
By: Credit Suisse Alternative Capital, Inc., as collateral manager

as a Lender

By: /s/ David H. Lerner
Name: David H. Lerner
Title: Authorized Signatory

Credit Suisse Syndicated Loan Fund
By: Credit Suisse Alternative Capital, Inc., as Agent (Subadviser) for Credit Suisse Asset Management (Australia) Limited, the Responsible Entity for Credit Suisse Syndicated Loan Fund

as a Lender

By: /s/ David H. Lerner
Name: David H. Lerner
Title: Authorized Signatory

Castle Garden Funding

as a Lender

By: /s/ David H. Lerner
Name: David H. Lerner

Title: Authorized Signatory

Madison Park Funding V, Ltd.
By: Credit Suisse Alternative Capital, Inc., as collateral manager

as a Lender

By: /s/ David H. Lerner
Name: David H. Lerner
Title: Authorized Signatory

Atrium V
By: Credit Suisse Alternative Capital, Inc., as collateral manager

as a Lender

By: /s/ David H. Lerner
Name: David H. Lerner
Title: Authorized Signatory

Madison Park Funding II, Ltd.
By Credit Suisse Alternative Capital, Inc. as collateral manager

as a Lender

By: /s/ David H. Lerner
Name: David H. Lerner
Title: Authorized Signatory

WHITNEY CLO I,
as a Lender

By: /s/ John M. Casparian
Name: John M. Casparian
Title: Co-President

Churchill Pacific Asset Management LLC

SIERRA CLO II,
as a Lender

By: /s/ John M. Casparian
Name: John M. Casparian
Title: Co-President

Churchill Pacific Asset Management LLC

SHASTA CLO I,
as a Lender

By: /s/ John M. Casparian
Name: John M. Casparian
Title: Co-President

Churchill Pacific Asset Management LLC

SAN GABRIEL CLO I,
as a Lender

By: /s/ John M. Casparian
Name: John M. Casparian
Title: Co-President

Churchill Pacific Asset Management LLC

OLYMPIC CLO I,
as a Lender

By: /s/ John M. Casparian
Name: John M. Casparian
Title: Co-President

Churchill Pacific Asset Management LLC

KINGSLAND I, LTD.,
as a Lender

By: Kingsland Capital Management, LLC as Manager

By: /s/ Vincent Siino
Name: Vincent Siino
Title: Authorized Officer

KINGSLAND II, LTD.,
as a Lender

By: Kingsland Capital Management, LLC as Manager

By: /s/ Vincent Siino
Name: Vincent Siino
Title: Authorized Officer

KINGSLAND IV, LTD.,
as a Lender

By: Kingsland Capital Management, LLC as Manager

By: /s/ Vincent Siino
Name: Vincent Siino
Title: Authorized Officer

KINGSLAND V, LTD.,
as a Lender

By: Kingsland Capital Management, LLC as Manager

By: /s/ Vincent Siino
Name: Vincent Siino
Title: Authorized Officer

Sands Point Funding Ltd.,
as a Lender

By: Guggenheim Investment Management, LLC as Collateral Manager

By: /s/ Kaitlin Trinh
Name: KAITLIN TRINH
Title: DIRECTOR

Green Lane CLO Ltd.,
as a Lender

By: Guggenheim Investment Management, LLC as Collateral Manager

By: /s/ Kaitlin Trinh
Name: KAITLIN TRINH
Title: DIRECTOR

Kennecott Funding Ltd..,
as a Lender

By: Guggenheim Investment Management, LLC as Collateral Manager

By: /s/ Kaitlin Trinh
Name: KAITLIN TRINH
Title: DIRECTOR

1888 Fund, Ltd.,
as a Lender

By: Guggenheim Investment Management, LLC as Collateral Manager

By: /s/ Kaitlin Trinh
Name: KAITLIN TRINH
Title: DIRECTOR

Copper River CLO Ltd.,
as a Lender

By: Guggenheim Investment Management, LLC as Collateral Manager

By: /s/ Kaitlin Trinh
Name: KAITLIN TRINH
Title: DIRECTOR

MARLBOROUGH STREET CLO, LTD.,
By its Collateral Manager, Massachusetts Financial Services Company, as a Lender

By: /s/ David Cobey
Name: David Cobey
Title: As authorized representative and not individually

Morgan Stanley Investment
Management Croton, Ltd.
By: Morgan Stanley Investment Management Inc. as Collateral Manager

By: /s/ Robert Drobny
Name: ROBERT DROBNY
Title: Executive Diretor

ARES IIIR/IVR CLO LTD., as a Lender
ARES VII CLO LTD., as a Lender
ARES VIII CLO LTD., as a Lender
ARES XI CLO LTD., as a Lender

ARES IIIR/IVR CLO LTD.
BY: ARES CLO MANAGEMENT IIIR/IVR, L.P., ITS ASSET MANAGER

BY: ARES CLO GP IIIR/IVR, LLC, ITS GENERAL PARTNER
BY: ARES MANAGEMENT LLC, ITS MANAGER

By: /s/ Seth Brufsky
Name: Seth Brufsky
Title: Vice President

ARES VII CLO LTD.

BY: ARES CLO MANAGEMENT VII, L.P., ITS INVESTMENT MANAGER

BY: ARES CLO GP VII, LLC, ITS GENERAL PARTNER

BY: ARES MANAGEMENT LLC, ITS MANAGER

By: /s/ Seth Brufsky
Name: Seth Brufsky
Title: Vice President

ARES VIII CLO LTD.

BY: ARES CLO MANAGEMENT VIII, L.P., ITS INVESTMENT MANAGER

BY: ARES CLO GP VIII, LLC, ITS GENERAL PARTNER

BY: ARES MANAGEMENT LLC, ITS MANAGER

By: /s/ Seth Brufsky
Name: Seth Brufsky
Title: Vice President

ARES XI CLO LTD.

By: ARES CLO MANAGEMENT XI, L.P., ITS ASSET MANAGER

By: ARES CLO GP XI, LLC, ITS GENERAL PARTNER

By: ARES MANAGEMENT LLC, ITS MANAGER

By: /s/ Seth Brufsky
Name: Seth Brufsky
Title: Vice President

Apidos CINCO CDO
as a Lender

By its Investment Advisor Apidos Capital Management, LLC

By: /s/ Gretchen Bergstresser
Name: Gretchen Bergstresser
Title: Sr. Portfolio Manager

Avery Point CLO, Limited
By: Sankaty Advisors LLC,
as Collateral Manager

By: /s/ Andrew S. Viens
Name: Andrew S. Viens
Title: Sr. Vice President of Operations

Castle Hill II-Ingots, Ltd
By: Sankaty Advisors LLC,
as Collateral Manager

By: /s/ Andrew S. Viens
Name: Andrew S. Viens
Title: Sr. Vice President of Operations

Race Point II CLO, Limited
By: Sankaty Advisors LLC,
as Collateral Manager

By: /s/ Andrew S. Viens
Name: Andrew S. Viens
Title: Sr. Vice President of Operations

Race Point IV CLO, Ltd
By: Sankaty Advisors LLC,
as Collateral Manager

By: /s/ Andrew S. Viens
Name: Andrew S. Viens

Title: Sr. Vice President of Operations

SSS Funding II, LLC
By: Sankaty Advisors LLC,
as Collateral Manager

By: /s/ Andrew S. Viens
Name: Andrew S. Viens
Title: Sr. Vice President of Operations

[The Prudential Insurance Company of America],
as a Lender

By: /s/ Stephen J. Collins

Name: Stephen J. Collins

Title: Prudential Investment Management, Inc., as investment advisor

ACKNOWLEDGED:

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH, as the Administrative Agent

By: /s/ William O'Daly
Name: William O'Daly
Title: Director

By: /s/ Ilya Ivashkov
Name: Ilya Ivashkov
Title: Associate

Exhibit A

Amended Credit Agreement

See attached.

Exhibit B

Amendment to ABL Credit Agreement

See Exhibit 10.3 to Amendment No. 5 to the Registration Statement on Form S-1 of Douglas Dynamics, Inc. (File No. 333-164590).

Exhibit C

Intercreditor Amendment

See attached.

CREDIT AND GUARANTY AGREEMENT

dated as of May 21, 2007

among

DOUGLAS DYNAMICS, L.L.C.

as Borrower

DOUGLAS DYNAMICS, INC.,
DOUGLAS DYNAMICS FINANCE COMPANY,
FISHER, LLC

as Guarantors,

THE BANKS AND FINANCIAL INSTITUTIONS LISTED HEREIN,
as Lenders,

CREDIT SUISSE SECURITIES (USA) LLC,
as Sole Bookrunner and Sole Lead Arranger,

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH,
as Collateral Agent, Administrative Agent,
Syndication Agent and Documentation Agent

Senior Secured Term Loan Facility

TABLE OF CONTENTS

ACKNOWLEDGED:

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH, as the Administrative Agent

By: /s/ William O'Daly
Name: William O'Daly
Title: Director

By: /s/ Ilya Ivashkov
Name: Ilya Ivashkov
Title: Associate

Additional Term Loan Commitments

Lender	Additional Term Loan Commitment	Pro Rata Share
[ ]	$ [ ]	[ ]%
[ ]	$ [ ]	[ ]%
[ ]	$ [ ]	[ ]%
[ ]	$ [ ]	[ ]%
[ ]	$ [ ]	[ ]%
[ ]	$ [ ]	[ ]%
Total	**$ 40,000,000**	**100.000000000%**

CREDIT AND GUARANTY AGREEMENT

CREDIT AND GUARANTY AGREEMENT, dated as of May 21, 2007 (the "**Agreement**"), by and among Douglas Dynamics, Inc., a Delaware corporation ("**Holdings**"), Douglas Dynamics, L.L.C., a Delaware limited liability company and a direct wholly-owned Subsidiary of Holdings (the "**Company**" or the "**Borrower**"), Fisher, LLC, a Delaware limited liability company ("**Fisher**") and Douglas Dynamics Finance Company, a Delaware corporation ("**DD Finance,**" and together with Fisher and Holdings, each a "**Guarantor**" and collectively the "**Guarantors**") the banks and financial institutions listed on the signature pages hereof (together with their respective successors and assigns, each individually referred to herein as a "**Lender**" and collectively as "**Lenders**"), Credit Suisse AG, Cayman Islands Branch("**Credit Suisse**"), as sole bookrunner and sole lead arranger (the "**Arranger**"), Credit Suisse, as syndication agent ("**Syndication Agent**"), Credit Suisse, as documentation agent (the "**Documentation Agent**"), Credit Suisse as collateral agent for the Lenders (in such capacity, the "**Collateral Agent**") and Credit Suisse as administrative agent for the Lenders (in such capacity, "**Administrative Agent**").

RECITALS:

WHEREAS, the Borrower has requested, and the Lenders have agreed, to extend certain credit facilities to the Borrower on the terms and conditions of this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, such parties hereby agree as follows:

SECTION 1. DEFINITIONS AND INTERPRETATION

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

"**ABL Priority Collateral**" has the meaning assigned to that term in the Intercreditor Agreement.

"**Accepting Lenders**" has the meaning assigned to that term in Section 2.14(d).

"**Additional Term Loan Commitment**" means the commitment of a Lender to make or otherwise fund any Additional Term Loan and "**Additional Term Loan Commitments**" means such commitments of all Lenders in the aggregate. The amount of each Lender's Additional Term Loan Commitment, if any, is set forth in the Second Amendment or in the applicable Assignment Agreement, subject to any adjustment or reduction pursuant to the terms and conditions hereof.

"**Additional Term Loan Lender**" means a Lender that becomes a party hereto pursuant to the Term Loan Joinder Agreement.

"**Additional Term Loan Maturity Date**" means May 21, 2016.

"**Additional Term Loans**" means the Term Loans made pursuant to the Second Amendment and the Term Loan Joinder Agreement on the Second Amendment Effective Date.

"**Administrative Agent**" has the meaning assigned to that term in the preamble hereto.

"**Adjusted Eurodollar Rate**" means, for any Interest Rate Determination Date with respect to an Interest Period for a Eurodollar Rate Loan, the greater of (1) 2.00% per annum and (2) the rate per annum obtained by dividing (i) (a) the rate per annum determined by the Administrative Agent by reference to the British Bankers' Association Interest Settlement Rates for deposits (for delivery on the first day of such period) with a term equivalent to such period in Dollars, determined as of approximately 11:00 a.m. (London, England time) on such Interest Rate Determination Date (as set forth by Bloomberg Information Service or any successor thereto or any other service selected by Administrative Agent which has been nominated by the British Bankers' Association as an authorized information vendor for the purpose of displaying such rates), or (b) in the event the rate referenced in the preceding clause (a) is not available, the rate per annum equal to the offered quotation rate to first class banks in the London interbank market by Credit Suisse for deposits (for delivery on the first day of the relevant period) in Dollars of amounts in same day funds comparable to the principal amount of the applicable Loan of Administrative Agent, in its capacity as a Lender, for which the Adjusted Eurodollar Rate is then being determined with maturities comparable to such period as of approximately 11:00 a.m. (London, England time) on such Interest Rate Determination Date, by (ii) an amount equal to (a) one minus (b) the Applicable Reserve Requirement.

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

"**Affected Lender**" has the meaning assigned to that term in Section 2.17(b).

"**Affected Loans**" has the meaning assigned to that term in Section 2.17(b).

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

any Person, means the possession, directly or indirectly, of the power (i) to vote 10% or more of the Securities having ordinary voting power for the election of directors of such Person or (ii) to direct or cause the direction of the management and policies of that Person, whether through the ownership of voting securities or by contract or otherwise.

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

"**Aggregate Amounts Due**" has the meaning assigned to that term in Section 2.16.

"**Aggregate Payments**" has the meaning assigned to that term in Section 7.2.

"**Agreement**" has the meaning assigned to that term in the preamble hereto.

"**Applicable Margin"** means a percentage, per annum, equal to:

	Base Rate Loans	Eurodollar Rate Loans
Term Loans (other than Additional Term Loans)	3.50%	4.50%
Additional Term Loans	4.00%	5.00%

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

"**Ares Group Investors**" means (i) the Ares Corporate Opportunities Fund, L.P. (the "**Ares Limited Partnership**"), (ii) ACOF Management, L.P., (iii) ACOF Operating Manager, L.P., (iv) Ares Management, Inc., (v) Ares Management LLC, (vi) any limited partners of any of the foregoing entities and (vii) partners, members, managing directors, officers or employees of any of those entities referenced in clauses (ii) through (v), provided that each Person set forth in clauses (vi) and (vii) shall only constitute an Ares Group Investor so long as it gives a proxy to, or otherwise agrees that it will vote in a manner consistent with, the Ares Limited Partnership (except to the extent otherwise required by ERISA or other applicable law) and the entity to which it is required to give a proxy to or otherwise vote consistently with continues to own Capital Stock in Parent.

"**Arranger**" has the meaning assigned to that term in the preamble hereto.

"**Asset Sale**" means a sale, lease or sub-lease (as lessor or sublessor), sale and leaseback, assignment, conveyance, transfer or other disposition to, or any exchange of property with, any Person (other than the Borrower or any Guarantor Subsidiary), in one transaction or a series of transactions, of all or any part of Holdings', Company's, or any of its Subsidiaries' businesses, assets or properties of any kind, whether real, personal, or mixed and whether tangible or intangible, whether now owned or hereafter acquired, including, without limitation, the Capital Stock of any of Holdings' Subsidiaries, other than (i) inventory sold or leased in the ordinary course of business (excluding any such sales by operations or divisions discontinued or to be discontinued), (ii) equipment that is surplus, obsolete, worn-out, or no longer used or useful in the business of Holdings, Company or any of its Subsidiaries, (iii) leasehold interests that are no longer used or useful in the business of Holdings, Company or any of its Subsidiaries, (iv) dispositions, by means of trade-in, of equipment used in the ordinary course of business, so long as such equipment is replaced, substantially concurrently, by like-kind equipment in an effort to upgrade the Facilities of Company and its Subsidiaries, (v) Cash and Cash Equivalents used in a manner not prohibited by the Credit Documents or the Revolving Credit Documents, and (vi) sales of other assets for aggregate consideration of less than $1,000,000 with respect to any transaction or series of related transactions and less than $3,000,000 in the aggregate during any calendar year (provided, that for purposes of calculating the amounts set forth in this clause (vi), any transactions or series of related transactions involving aggregate consideration of $50,000 or less may be excluded).

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

"**Attributable Indebtedness**" in respect of a sale and leaseback transaction means, at the time of determination, the present value of the obligation of the lessee for net rental payments during the remaining term of the lease included in such sale and leaseback transaction including any period for which such lease has been extended or may, at the option of the lessor, be extended. Such present value shall be calculated using a discount rate equal to the rate of interest implicit in such transaction, determined in accordance with GAAP.

"**Aurora Group Investors**" means (i) Aurora Equity Partners II L.P. and Aurora Overseas Equity Partners II, L.P. (the "**Limited Partnerships**"), (ii) Aurora Capital Partners II L.P. and Aurora Overseas Capital Partners II, L.P. (the "**General Partners**"), (iii) Aurora Advisors II LLC and Aurora Overseas Advisors, II, LDC (the "**Ultimate General Partners**"), (iv) any limited partners of the Limited Partnerships or any limited partners of the General Partners,provided that such limited partner gives a proxy to, or otherwise agrees that it will vote in a manner consistent with, the Limited Partnerships (except to the extent otherwise required by ERISA or other applicable law) or the General Partners, (v) any managing director or employee of Aurora Management Partners LLC, provided that such managing director or employee gives a proxy to, or otherwise agrees that he or she will vote in a manner consistent with the Limited Partnerships (except to the extent otherwise required by ERISA or other applicable law) or the General Partners, (vi) any member of the Advisory Board of Aurora Management Partners LLC, provided that such member gives a proxy to, or otherwise agrees that he or she will vote in a manner consistent with, the Limited Partnerships (except to the extent otherwise required by ERISA or other applicable law) or the General Partners, (vii) any Affiliate of Aurora

Management Partners LLC, provided that such Affiliate gives a proxy to, or otherwise agrees that it will vote in a manner consistent with, the Limited Partnerships or the General Partners, and (viii) any investment fund or other entity controlled by or under common control with, any one or more of the Ultimate General Partners or Aurora Management Partners LLC or the principals that control any one or more of the Ultimate General Partners or Aurora Management Partners LLC; provided that each Person

set forth in clauses (iv) through (viii) shall only constitute an Aurora Group Investor so long as the entity to which it is required to give a proxy to or otherwise vote consistently with continues to own Capital Stock in Parent.

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

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

"**Base Rate**" means, for any day, a rate per annum equal to the greatest of (i) the Prime Rate in effect on such day, (ii) the Federal Funds Effective Rate in effect on such day plus ½ of 1%, and (iii) 3.00%.

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

"**Blocked Account**" means any Deposit Account subject to a Blocked Account Agreement.

"**Blocked Account Agreement**" means an account control agreement on terms reasonably satisfactory to the Collateral Agent.

"**Beneficiary**" means each Agent, Lender and Lender Counterparty.

"**Borrower**" has the meaning assigned to that term in the preamble hereto.

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

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

"**Capital Stock**" means any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation), including, without limitation, partnership interests and membership interests, and any and all warrants, rights or options to purchase or other arrangements or rights to acquire any of the foregoing.

"**Cash**" means money, currency or a credit balance in any demand or deposit account.

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

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

"**Change of Control**" means, at any time, (i) any Person or "group" (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act) other than Sponsor beneficially owns, directly or indirectly, more than 35%, on a fully diluted basis, of the outstanding Capital Stock (measured only by voting power) of Holdings entitled (without regard to the occurrence of any contingency) to vote for the election of members of the board of directors (or similar governing body) of Holdings, unless Sponsor beneficially owns and controls, on a fully diluted basis, more of the outstanding Capital Stock (measured only by voting power) of Holdings entitled (without regard to the occurrence of any contingency) to vote for the election of members of the board of directors (or similar governing body) of Holdings than any other Person or "group" (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act); or (ii) Holdings shall cease to beneficially own and control 100% on a fully diluted basis of the economic and voting interests in the Capital Stock of Company.

"**Change in Law**" has the meaning assigned to that term in Section 2.18(a).

"**Closing Date**" means May 21, 2007.

"**Collateral**" means, collectively, all of the real, personal and mixed property (including Capital Stock) in which Liens are purported to be granted pursuant to the Collateral Documents as security for the Obligations.

"**Collateral Agent**" has the meaning assigned to that term in the preamble hereto.

"**Collateral Documents**" means the Pledge and Security Agreement, the Mortgages, the Blocked Account Agreements, the Intercreditor Agreement and all other instruments, documents and agreements delivered by any Credit Party pursuant to this Agreement or any of the other Credit Documents in order to grant to Collateral Agent, for the benefit of Lenders, a Lien on any real, personal or mixed property of that Credit Party as security for the Obligations (or to perfect any Liens so granted).

"**Commitment**" means any Term Loan Commitment.

"**Company**" has the meaning assigned to that term in the preamble hereto.

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

"**Consolidated Adjusted EBITDA**" means, for any period, an amount determined for Company and its Subsidiaries on a consolidated basis equal to the

total of (a) Consolidated Net Income, plus (b) the sum, without duplication, of each of the following to the extent deducted in the calculation of Consolidated Net Income for such period (i) Consolidated Interest Expense and non-Cash interest expense, (ii) provisions for taxes based on income, (iii) total depreciation expense, (iv) total amortization expense (including amortization of goodwill, other intangibles, and financing fees and expenses), (v) non-cash impairment charges, (vi) non-cash expenses resulting from the grant of stock and stock options and other compensation to management personnel of Company and its Subsidiaries pursuant to a written incentive plan or agreement, (vii) other non-Cash items that are unusual or otherwise non-recurring items, (viii) expenses or fees under the Management Services Agreement, as in effect on December 16, 2004 including any payments made under the Management Services Agreement and comprising all or any portion of the Qualifying IPO Payment, (ix) any extraordinary losses and non-recurring charges during any period (including severance, relocation costs, one-time compensation charges and losses or charges associated with Interest Rate Agreements), (x) restructuring charges or reserves (including costs related to closure of Facilities), (xi) any transaction costs incurred in connection with the issuance of Securities or any refinancing transaction, in each case whether or not such transaction is consummated, (xii) any fees and expensed related to any Permitted Acquisitions and (xiii) fees, expenses and other transaction costs incurred by Company and its Subsidiaries during such period in connection with the transactions contemplated by the First Amendment to Revolving Credit Facility, the Second Amendment and the Qualifying IPO minus (c) the sum, without duplication, of (i) non-Cash items increasing Consolidated Net Income for such period that are unusual or otherwise non-recurring items, (ii) cash payments made during such period reducing reserves or liabilities for accruals made in prior periods but only to the extent such reserves or accruals were

added back to "Consolidated Adjusted EBITDA" in a prior period pursuant to clause (b)(vii) or (b)(viii) above, and (iii) Restricted Payments made during such period to Holdings pursuant to Section 6.5(c)(i) (other than any such Restricted Payments made to Holdings pursuant to Section 6.5(c)(i) for the purpose of paying fees, expenses and other transaction costs paid in cash during such period in connection with the transactions contemplated by the First Amendment to Revolving Credit Facility, the Second Amendment and the Qualifying IPO).

"**Consolidated Capital Expenditures**" means, for any period, the aggregate of all expenditures of Company and its Subsidiaries during such period determined on a consolidated basis that, in accordance with GAAP, are or should be included in "purchase of property and equipment" or similar items reflected in the consolidated statement of cash flows of Company and its Subsidiaries, but excluding expenditures constituting the purchase price for Permitted Acquisitions and amounts constituting Net Asset Sale Proceeds and Net Insurance/Condemnation Proceeds which are reinvested in the business of Company and its Subsidiaries in accordance with Section 2.13(a) or Section 2.13(b), respectively, by Company and its Subsidiaries during such period.

"**Consolidated Coverage Ratio**" on any date of determination (the "**Transaction Date**") means the ratio, on a *pro forma* basis, of (a) the aggregate amount of Consolidated Adjusted EBITDA for the Test Period to (b) the aggregate Consolidated Fixed Charges during the Test Period; *provided*, that for purposes of such calculation: (1) Permitted Acquisitions which occurred during the Test Period or subsequent to the Test Period and on or prior to the Transaction Date shall be assumed to have occurred on the first day of the Test Period, (2) transactions giving rise to the need to calculate the Consolidated Coverage Ratio and the application of the proceeds therefrom (except as otherwise provided in this definition) shall be assumed to have occurred on the first day of the Test Period, (3) the incurrence of any Indebtedness (including the issuance of any Disqualified Capital Stock) during the Test Period or subsequent to the Test Period and on or prior to the Transaction Date (and the application of the proceeds therefrom to the extent used to refinance or retire other Indebtedness) (other than ordinary working capital borrowings) shall be assumed to have occurred on the first day of the Test Period, (4) the permanent repayment of any Indebtedness (including the redemption of any Disqualified Capital Stock) during the Test Period or subsequent to the Test Period and on or prior to the Transaction Date (other than ordinary working capital borrowings) shall be assumed to have occurred on the first day of the Test Period, (5) the Consolidated Fixed Charges attributable to interest on any Indebtedness or dividends on any Disqualified Capital Stock bearing a floating interest (or dividend) rate shall be computed on a *pro forma* basis as if the average rate in effect from the beginning of the Test Period to the Transaction Date had been the applicable rate for the entire period, unless Company or any of its Subsidiaries is a party to a Hedge Agreement (which shall remain in effect for the 12-month period immediately following the Transaction Date) that has the effect of fixing the interest rate on the date of computation, in which case such rate (whether higher or lower) shall be used, and (6) amounts attributable to operations or businesses permanently discontinued or disposed of prior to the Transaction Date, shall be excluded, except, in the case of a determination of Consolidated Fixed Charges, only to the extent that the obligations giving rise to such Consolidated Fixed Charges would no longer be obligations contributing to Consolidated Fixed Charges subsequent to the Transaction Date.

"Consolidated Current Assets" means, as at any date of determination, the total assets of Company and its Subsidiaries on a consolidated basis that may properly be classified as current assets in conformity with GAAP, excluding Cash and Cash Equivalents.

"Consolidated Current Liabilities" means, as at any date of determination, the total liabilities of Company and its Subsidiaries on a consolidated basis that may properly be classified as current liabilities in conformity with GAAP, excluding the current portion of long term debt.

"**Consolidated Excess Cash Flow**" means, for any period, an amount (if positive) equal to:(i) the sum, without duplication, of the amounts for such period of (a) Consolidated Adjusted EBITDA, plus (b) the Consolidated Working Capital Adjustment, minus (ii) the sum, without duplication, of the amounts for such period of (a) voluntary and scheduled repayments of Consolidated Total Debt (excluding voluntary repayments financed with Indebtedness), (b) cash Consolidated Capital Expenditures (net of any proceeds of (y) any related financings with respect to such expenditures and (z) to the extent not excluded in the calculation of Consolidated Capital Expenditures, any sales of capital assets used to finance such expenditures), (c) Consolidated Interest Expense paid in cash for such period, (d) the portion of taxes based on income actually paid in cash during such period by Company or any of its Subsidiaries whether for such period or any other period, (e) Restricted Payments made under Sections 6.5(c)(ii)-(iv) during such period, (f) Restricted Payments or Investments made under Section 6.5(d)(i), Section 6.5(f), Section 6.7(l) and Section 6.7(m), as applicable, and which are for any Fiscal Year, declared (in the case of dividends or distributions) or paid in cash from June 1 of the applicable Fiscal Year to and including May 31 of the immediately following Fiscal Year, (g) Restricted Payments made to Holdings pursuant to Section 6.5(c)(i) for the purpose of paying fees, expenses and other transaction costs paid in cash during such period in connection with the transactions contemplated by the Second Amendment, the First Amendment to Revolving Credit Facility and the Qualifying IPO and (h) fees, expenses and other transaction costs paid in cash by Company and its Subsidiaries during such period in connection with the transactions contemplated by the First Amendment to Revolving Credit Facility, the Second Amendment and the Qualifying IPO. Consolidated Excess Cash Flow shall not be reduced by the amount of any Permitted Loan Purchase.

"**Consolidated Fixed Charges**" means, for any period, the sum, without duplication, of the amounts determined for Company and its Subsidiaries on a consolidated basis equal to (i) Consolidated Interest Expense for such period, (ii) scheduled payments for such period of principal on Consolidated Total Debt, (iii) Consolidated Capital Expenditures for such period other than those financed with secured Indebtedness permitted by Sections 6.1 and 6.2 or made or incurred pursuant to Section 6.8(b)(ii) of the Revolving Credit Facility, (iv) the portion of taxes based on income actually paid in cash during such period by Company or any of its Subsidiaries whether for such period or any other period and (v) Restricted Payments permitted under Section 6.5(c)(iii) and which are paid in cash during such period.

"**Consolidated Interest Expense**" means, for any period, (i) total interest expense (including that portion attributable to Capital Leases in accordance with GAAP and capitalized interest) payable in cash of Company and its Subsidiaries on a consolidated basis with respect to all outstanding Indebtedness of Company and its Subsidiaries, including all commissions,

discounts and other fees and charges owed with respect to letters of credit and net costs under Interest Rate Agreements, but excluding, however, any amounts referred to in Section 2.10(d) payable on or before the Closing Date and amounts with respect to the termination of Interest Rate Agreements entered into within 90 days of the Closing Date, minus (ii) the aggregate amount of interest income of Company and its Subsidiaries during such period paid in cash.

"**Consolidated Net Income**" means, for any period, (i) the net income (or loss) of Company and its Subsidiaries on a consolidated basis for such period taken as a single accounting period determined in conformity with GAAP, minus (ii) (a) the income (or loss) of any Person (other than a Subsidiary of Company) in which any other Person (other than Company or any of its Subsidiaries) has a joint interest, except to the extent of the amount of dividends or other distributions actually paid to Company or any of its Subsidiaries by such Person during such period, (b) the income (or loss) of any Person accrued prior to the date it becomes a Subsidiary of Company or is merged into or consolidated with Company or any of its Subsidiaries or that Person's assets are acquired by Company or any of its Subsidiaries, (c) the income of any Subsidiary of Company to the extent that the declaration or payment of dividends or similar distributions by that Subsidiary of that income is not at the time permitted by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Subsidiary, (d) any after-tax gains or losses attributable to Asset Sales or returned surplus assets of any Pension Plan, and (e) (to the extent not included in clauses (a) through (d) above) any net extraordinary gains or net extraordinary losses. Consolidated Net Income shall not be increased as a result of any discount realized as a result of any Permitted Loan Purchase.

"Consolidated Secured Debt" means, as at any date of determination, the Consolidated Total Debtof Company and its Subsidiaries determined on a consolidated basis (and without duplication) in accordance with GAAP that is secured by Liens on any of the assets of the Company or any of its Subsidiaries.

"**Consolidated Total Debt**" means, as at any date of determination, the aggregate stated balance sheet amount of all Indebtedness of Company and its Subsidiaries determined on a consolidated basis in accordance with GAAP; provided, that the amount of revolving Indebtedness to be included at the date of determination shall be equal to the average of the balances of such revolving Indebtedness as of the end of each of the prior four calendar quarters (except that with respect to the first four calendar quarters after the Closing Date, the amount of revolving Indebtedness to be included shall be based on the average of the quarter end balances from the Closing Date through the date of determination).

"Consolidated Working Capital" means, as at any date of determination, the excess of Consolidated Current Assets over Consolidated Current Liabilities.

"Consolidated Working Capital Adjustment" means, for any period on a consolidated basis, the amount (which may be a negative number) by which Consolidated Working Capital as of the beginning of such period exceeds (or is less than) Consolidated Working Capital as of the end of such period.

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

"**Contributing Guarantors**" has the meaning assigned to that term in Section 7.2.

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

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

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

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

"**Credit Document**" means any of this Agreement, the Notes, if any, the Collateral Documents, and all other documents, instruments or agreements executed and delivered by a Credit Party for the benefit of any Agent or any Lender in connection herewith.

"**Credit Extension**" means the making of a Loan.

"**Credit Party**" means each Person (other than any Agent or any Lender or any other representative thereof) from time to time party to a Credit Document.

"**Cumulative Interest Expense**" means the aggregate amount (without duplication and determined in each case in accordance with GAAP) of (A) interest expensed or capitalized, paid, accrued, or scheduled to be paid or accrued (including, in accordance with the following sentence, interest attributable to Capital Leases and Attributable Indebtedness) of the Company and its Subsidiaries during such period, including (I) amortization of debt issuance costs, original issue discount, debt discounts or premium and other financing fees and expenses and non-cash interest payments or accruals on any Indebtedness, (II) the interest portion of all deferred payment obligations of the Company and its Subsidiaries, and (III) all commissions, discounts and other fees and charges owed by the Company and its Subsidiaries with respect to bankers' acceptances and letters of credit financings and Hedge Agreements, in each case to the extent attributable to such period, and (B) the amount of all cash dividends paid by the Company or any of its Subsidiaries in respect of preferred stock (other than by Subsidiaries of the Company to the Company or its wholly owned Subsidiaries).

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

"**DD Finance**" has the meaning assigned to that term in the preamble.

"**Declining Lender**" has the meaning assigned to that term in Section 2.14(d).

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

"**Deposit Account**" means each checking or other demand deposit account maintained by any of the Credit Parties other than any Excluded Deposit Accounts. All funds in each Deposit Account shall be conclusively presumed to be Collateral and proceeds of Collateral and the Agents and the Lenders shall have no duty to inquire as to the source of the amounts on deposit in any Deposit Account.

"**Disqualified Capital Stock**" means with respect to any Person, (a) Capital Stock of such Person that, by its terms or by the terms of any security into which it is convertible, exercisable or exchangeable, is, or upon the happening of an event or the passage of time or both would be, required to be redeemed or repurchased including at the option of the holder thereof by such Person or any of its Subsidiaries, in whole or in part, on or prior to 91 days following the Additional Term Loan Maturity Date and (b) any Capital Stock of any Subsidiary of such Person other than any common equity with no preferences, privileges, and no redemption or repayment provisions.

Notwithstanding the foregoing, any Capital Stock of the Company that would constitute Disqualified Capital Stock solely because the holders thereof have the right to require the Company to repurchase such Capital Stock upon the occurrence of a change of control or an asset sale shall not constitute Disqualified Capital Stock if the terms of such Capital Stock provide that the Company may not repurchase or redeem any such Capital Stock pursuant to such provisions prior to the prepayment of the Loans as are required by this Agreement.

"**Documentation Agent**" has the meaning assigned to that term in the preamble hereto.

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

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

"**Eligible Assignee**" means (i) any Lender, any Affiliate of any Lender and any Related Fund (any two or more Related Funds being treated as a single Eligible Assignee for all purposes hereof), and Sponsor and any fund or account affiliated with Sponsor (provided that, none of the Ares Limited Partnership, the Limited Partnerships, and to the extent holding any Capital Stock in Holdings, any other Ares Group Investor or Aurora Group Investor, shall be deemed to be a "Lender" for purposes of voting on any matters (including the granting of any consents or waivers) with respect to any of the Credit Documents) and (ii) any commercial bank, insurance company, investment or mutual fund or other entity that is an "accredited investor" (as defined in Regulation D under the Securities Act) and which extends credit or buys loans as one of its businesses; provided, no Affiliate of Holdings (other than any existing Lender, Affiliate of such Lender, Sponsor or any fund or account affiliated with Sponsor) shall be an Eligible Assignee. Notwithstanding anything to the contrary in the foregoing, the Borrower shall be an Eligible Assignee when Loans are assigned pursuant to a Permitted Loan Purchase.

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

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

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

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

"**ERISA Affiliate**" means, as applied to any Person on or after the date of the closing of the transactions contemplated by the Purchase Agreement, (i) any corporation which is a member of a controlled group of corporations within the meaning of Section 414(b) of the Internal Revenue Code of which that Person is a member; (ii) any trade or business (whether or not incorporated) which is a member of a group of trades or businesses under common control within the meaning of Section 414(c) of the Internal Revenue Code of which that Person is a member; and (iii) any member of an affiliated service group within the meaning of Section 414(m) or (o) of the Internal Revenue Code of which that Person, any corporation described in clause (i) above or any trade or business described in clause (ii) above is a member.

"**ERISA Event**" means (i) a "reportable event" within the meaning of Section 4043(c) of ERISA and the regulations issued thereunder with respect to any Pension Plan (excluding those for which the provision for 30-day notice to the PBGC has been waived by regulation); (ii) the failure to meet the minimum funding standard of Section 412 of the Internal Revenue Code with respect to any Pension Plan (whether or not waived in accordance with Section 412(d) of the Internal Revenue Code) or the failure to make by its due date a required installment under Section 412(m) of the Internal Revenue Code with respect to any Pension Plan; (iii) the provision by the administrator of any Pension Plan pursuant to Section 4041(a)(2) of ERISA of a notice of intent to terminate such plan in a distress termination described in Section 4041(c) of ERISA; (iv) the withdrawal by Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates from any Pension Plan with two or more contributing sponsors or the termination of any such Pension Plan resulting in liability to Holdings, any of its Subsidiaries or any of their respective Affiliates pursuant to Section 4063 or 4064 of ERISA; (v) the institution by the PBGC of proceedings to terminate any Pension Plan; (vi) the imposition, or the

occurrence of any events or condition that could reasonably be expected to result in the imposition, of liability on Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates pursuant to Section 4062(e) or 4069 of ERISA or by reason of the application of Section 4212(c) of ERISA; (vii) the occurrence of an act or omission which could give rise to the imposition on Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates of fines, penalties, taxes or related charges under Chapter 43 of the Internal Revenue Code or under Section 409, Section 502(c), (i) or (l), or Section 4071 of ERISA in respect of any Employee Benefit Plan (which fines, penalties, taxes or related charges, for purposes of Section 4.18, shall be material); (viii) the assertion of a material claim (other than routine claims for benefits) against any Employee Benefit Plan or the assets thereof, or against Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates in connection with any Employee Benefit Plan; (ix) receipt from the Internal Revenue Service of notice of the failure of any Pension Plan (or any other Employee Benefit Plan intended to be qualified under Section 401(a) of the Internal Revenue Code) to qualify under Section 401(a) of the Internal Revenue Code, or the failure of any trust forming part of any Pension Plan to qualify for exemption from taxation under Section 501(a) of the Internal Revenue Code; or (x) the imposition of a Lien pursuant to Section 401(a)(29) or 412(n) of the Internal Revenue Code or pursuant to ERISA with respect to any Pension Plan.

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

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

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

"**Excluded Deposit Accounts**" means, collectively, (a) Deposit Accounts established solely for the purpose of funding payroll and trust accounts and funded solely with amounts necessary to cover then outstanding payroll liabilities and amounts required to be retained in such trust accounts, as well as minimum balance requirements; (b) Deposit Accounts with amounts on deposit that, when aggregated with the amounts on deposit in all other Deposit Accounts for which a Control Agreement has not been obtained (other than those specified in clause (a) and (c)), do not at any time exceed $4,000,000; (c) Deposit Accounts, with amounts on deposit which in the aggregate that do not at any time exceed $1,000,000, held at a financial institution that is not, for United Stated federal income tax purposes (i) an individual who is a citizen or resident of the United States or (ii) a corporation, partnership or other entity treated as a corporation or partnership created or organized in or under the laws of the United States, or any political subdivision thereof; (d) zero balance disbursement accounts; and (e) Deposit Accounts, with amounts on deposit which in the aggregate do not at any time exceed $500,000, the sole proceeds of which are funds received by a Loan Party from credit card sales; provided that, in each of the foregoing cases, if reasonably requested by the Collateral Agent or the Administrative Agent, the Borrower shall provide such Agent with periodic updates of the account numbers and names of all financial

institutions where such Deposit Accounts are maintained.

"**Existing Credit Agreement**" means the Amended and Restated Credit and Guaranty Agreement dated as of December 16, 2004, by and among Holdings, the Borrower, certain subsidiaries of the Borrower as guarantors and Credit Suisse as administrative agent, as previously amended, restated, amended and restated, supplemental or modified prior to the Closing Date.

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

"**Fair Share**" has the meaning assigned to that term in Section 7.2.

"**Fair Share Contribution Amount**" has the meaning assigned to that term in Section 7.2.

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

"**Financial Plan**" has the meaning assigned to that term in Section 5.1(i).

"**First Amendment**" means Amendment No. 1 to this Agreement dated as of December 19, 2008.

"**First Amendment to Revolving Credit Facility**" means Amendment No. 1 to Revolving Credit Facility, dated as of April 16, 2010 amongHoldings, the Company, Fisher, DD Finance and the lenders party thereto.

"**First Offer**" has the meaning assigned to that term in Section 2.14(d).

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

"**Fiscal Quarter**" means a fiscal quarter of any Fiscal Year.

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

"**Fisher**" has the meaning assigned to that term in the preamble.

"**Fixed Charge Coverage Compliance Certificate**" means a Compliance Certificate substantially in the form of Exhibit M.

"**Fixed Charge Coverage Ratio**" means the ratio of (a) the aggregate amount of Consolidated Adjusted EBITDA for the Test Period to (b) the aggregate Consolidated Fixed Charges during the Test Period.

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

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

"**Funding Guarantors**" has the meaning assigned to that term in Section 7.2.

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

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

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

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

"**Grantor**" has the meaning assigned to that term in the Pledge and Security Agreement.

"**Guaranteed Obligations**" has the meaning assigned to that term in Section 7.1.

"**Guarantor**" means each of (i) Holdings, and (ii) each Guarantor Subsidiary from time to time party to this Agreement.

"**Guarantor Subsidiary**" means (i) Fisher, (ii) DD Finance, (iii) each Domestic Subsidiary of Holdings (other than Borrower), and (iv) to the extent no adverse tax consequences to Company would result therefrom, each Foreign Subsidiary of Holdings.

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

"**Hazardous Materials**" means any chemical, material, waste or substance, exposure to which is prohibited, limited or regulated by any Governmental Authority.

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

"**Hedge Agreement**" means an Interest Rate Agreement or a Currency Agreement entered into with a Lender Counterparty.

"**Highest Lawful Rate**" means the maximum lawful interest rate, if any, that at any time or from time to time may be contracted for, charged, or received under the laws applicable to any Lender which are presently in effect or, to the extent allowed by law, under such applicable laws which may hereafter be in effect and which allow a higher maximum nonusurious interest rate than applicable laws now allow.

"**Holdings**" has the meaning assigned to that term in the preamble hereto.

"**Holdings Equity Proceeds**" means the proceeds of any sale of Capital Stock (other than Disqualified Capital Stock) of Holdings following the Second Amendment Effective Date (and excluding any proceeds of the Qualifying IPO), in each case, only to the extent that (i) such proceeds are held by Holdings in the form of cash or Cash Equivalents, (ii) such proceeds are not contributed by Holdings to the Company or any Subsidiary and (iii) the Restricted Payment Amount is not increased in respect of such proceeds.

"**Increased-Cost Lenders**" has the meaning assigned to that term in Section 2.22.

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

in respect thereof; (ix) any liability of such Person for an obligation of another through any agreement (contingent or otherwise) (a) to purchase, repurchase or otherwise acquire such obligation or any security therefore, or to provide funds for the payment or discharge of such obligation (whether in the form of loans, advances, stock purchases, capital contributions or otherwise) or (b) to maintain the solvency or any balance sheet item, level of income or financial condition of another if, in the case of any agreement described under subclauses (a) or (b) of this clause (ix), the primary purpose or intent thereof is as described in clause (viii) above; (x) all net payment obligations of such Person in respect of any exchange traded or over the counter derivative transaction, including, without limitation, any Interest Rate Agreement and Currency Agreement, whether entered into for hedging or speculative purposes; (xi) the principal balance outstanding under any synthetic lease, tax retention lease, off-balance sheet loan or similar off-balance sheet financing product; and (xii) the indebtedness of any partnership or Joint Venture in which such Person is a general partner or a joint venturer except to the extent that the terms of such indebtedness provide that such indebtedness is nonrecourse to such Person.

"**Indemnified Liabilities**" has the meaning assigned to that term in Section 10.3(a).

"**Indemnitee**" has the meaning assigned to that term in Section 10.3(a).

"**Installment**" has the meaning assigned to that term in Section 2.11.

"**Intellectual Property**" means all patents, trademarks, service marks, tradenames, domain names, trade secrets, copyrights, technology, know-how and processes used in or necessary for the conduct of the business of Company and its Subsidiaries.

"Intercreditor Agreement" shall mean the Intercreditor Agreement in the form of Exhibit L.

"**Interest Payment Date**" means with respect to (i) any Base Rate Loan, the last Business Day in each of March, June, September and December of each year through the final maturity date of such Loan; and (ii) any Eurodollar Rate Loan, the last day of each Interest Period applicable to such Loan; provided, in the case of each Interest Period of longer than three months "Interest Payment Date" shall also include each date that is three months, or an integral multiple thereof, after the commencement of such Interest Period.

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

calendar month; (c) no Interest Period with respect to any portion of any Term Loan (other than any Additional Term Loan) shall extend beyond the Maturity Date and (d) no Interest Period with respect to any portion of any Additional Term Loan shall extend beyond the Additional Term Loan Maturity Date.

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

"**Interest Rate Determination Date**" means, with respect to any Interest Period, the date that is two (2) Business Days prior to the first day of such Interest Period.

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

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

"**Investment Conditions**" means (i) the Consolidated Coverage Ratio is not less than 2.0 to 1.0 and (ii) the Leverage Ratio is not greater than 5.0 to 1.0.

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

"**Lender**" has the meaning assigned to that term in the preamble hereto, and shall include any other Person that becomes a party hereto pursuant to an Assignment Agreement or the Term Loan Joinder Agreement.

"**Lender Counterparty**" means each Lender or any Affiliate of a Lender counterparty to a Hedge Agreement (including any Person who is a Lender (and any Affiliate thereof) as of the Closing Date but subsequently, whether before or after entering into a Hedge Agreement, ceases to be a Lender).

"**Leverage Ratio**" means the ratio as of the date of determination of (i) Consolidated Total Debt, less unrestricted Cash and Cash Equivalents of Company and its Subsidiaries as of such day in excess of $1,000,000, the contents of which are in a Blocked Account, to (ii) Consolidated Adjusted EBITDA for the Test Period most recently ended.

"**Lien**" means any lien, mortgage, pledge, assignment, security interest, charge or encumbrance of any kind (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement, and any lease in the nature thereof) and any option, trust or other preferential arrangement having the practical effect of any of the foregoing.

"**Loan**" means a Term Loan.

"Loan Purchase Limit" means (a) prior to the date that the Borrower delivers to Administrative Agent a written certification of its Net Cash Balance as of December 31, 2008 in form reasonably satisfactory to Administrative Agent, $45,200,000, and (b) after such date, the sum of the Net Cash Balance as of December 31, 2008 plus the aggregate principal balance of all Loans purchased prior to such date pursuant to Permitted Loan Purchases plus 50% of accrued Consolidated Excess Cash Flow for Fiscal Year 2009.

"**Management Services Agreement**" means the Amended and Restated Management Services Agreement dated April 12, 2004 between Holdings and Sponsor, as it may be amended, supplemented or otherwise modified from time to time.

"**Margin Stock**" has the meaning assigned to that term in Regulation U of the Board of Governors of the Federal Reserve System as in effect from time to time.

"**Material Adverse Effect**" means a material adverse effect upon (i) the business, operations, properties, assets or condition (financial or otherwise) of Holdings and its Subsidiaries taken as a whole; (ii) the ability of any Credit Party to perform its Obligations; (iii) the legality, validity, binding effect or enforceability against a Credit Party of a Credit Document to which it is a party; or (iv) the rights, remedies and benefits available to, or conferred upon, any Agent and any Lender or any Secured Party under any Credit Document.

"**Maturity Date**" means May 21, 2013.

"**Maximum Restricted Payment Amount**" means, for any four Fiscal Quarter period, (1) $24,000,000, if Consolidated Adjusted EBITDA is greater than or equal to $30,000,000 and less than or equal to $40,000,000 for the Test Period, (2) $12,000,000, if Consolidated Adjusted EBITDA is greater than or equal to $27,000,000 but less than $30,000,000 for the Test Period, (3) $8,000,000, if Consolidated Adjusted EBITDA is greater than or equal to $25,000,000 but less than $27,000,000 for the Test Period, and (4) $0, if Consolidated Adjusted EBITDA is less than $25,000,000 for the Test Period.

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

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

"**Multiemployer Plan**" means any Employee Benefit Plan which is a "multiemployer plan" as defined in Section 3(37) or Section 4001(a)(3) of ERISA.

"**Net Asset Sale Proceeds**" means, with respect to any Asset Sale, an amount equal to: (i) Cash payments (including any Cash received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received) received by Holdings or any of its Subsidiaries from such Asset Sale, minus (ii) any bona fide direct costs incurred in connection with such Asset Sale, including, without limitation, (a) income taxes estimated in good faith by the seller thereof to be payable by the seller as a result of any gain recognized in connection with such Asset Sale, (b) payment of the outstanding principal amount of, premium or penalty, if any, and interest on any Indebtedness (other than the Loans) that is secured by a Lien on the stock or assets in question and that is required to be repaid under the terms thereof as a result of such Asset Sale, (c) brokerage fees and legal expenses incurred directly attributable to such Asset Sale; and (d) any reserves required to be established by the seller thereof in accordance with GAAP against liabilities reasonably anticipated and directly attributable to the Asset Sale, including, without limitation, pension and other post-employment benefit liabilities, liabilities related to environmental matters and liabilities under indemnification obligations associated with such Asset Sale.

"Net Cash Balance" means, at any time, the (a) sum of all Cash and Cash Equivalents held by Credit Parties minus (b) the sum of the aggregate principal amount of loans outstanding under the Revolving Credit Facility plus the aggregate maximum amount which may be drawn under all letters of credit issued under the Revolving Credit Facility.

"**Net Insurance/Condemnation Proceeds**" means an amount equal to: (i) any Cash payments or proceeds received by Holdings or any of its Subsidiaries

(a) under any casualty insurance policy in respect of a covered loss thereunder or (b) as a result of the taking of any assets of Holdings or any of its Subsidiaries by any Person pursuant to the power of eminent domain, condemnation or otherwise, or pursuant to a sale of any such assets to a purchaser with such power under threat of such a taking, minus (ii) (a) any actual and reasonable costs incurred by Holdings or any of its Subsidiaries in connection with the adjustment or settlement of any claims of Holdings or such Subsidiary in respect thereof, and (b) any bona fide direct costs incurred in connection with any sale of such assets as referred to in clause (i)(b) of this definition, including income taxes estimated in good faith by the seller thereof to be payable as a result of any gain recognized in connection therewith.

"**Non-US Lender**" has the meaning assigned to that term in Section 2.19(c).

"**Note**" means a Term Loan Note.

"**Notice**" means a Funding Notice or a Conversion/Continuation Notice.

"**Obligations**" means all obligations of every nature of each Credit Party from time to time owed to the Agents (including former Agents), the Lenders or any of them, or to any Lender Counterparties, under any Credit Document, whether for principal, interest (including interest which, but for the filing of a petition in bankruptcy with respect to such Credit Party, would have accrued on any Obligation, whether or not a claim is allowed against such Credit

Party for such interest in the related bankruptcy proceeding), payments for fees, expenses, indemnification or otherwise.

"**Obligee Guarantor**" has the meaning assigned to that term in Section 7.7.

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

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

"**Pension Plan**" means any Employee Benefit Plan which is subject to Section 412 of the Internal Revenue Code or Section 302 of ERISA.

"**Perfection Deliverables**" means, with respect to any Credit Party, or any Person that becomes a Credit Party pursuant to Section 5.10 and to the extent required to be delivered under such Section:

(i) evidence satisfactory to Collateral Agent of the compliance by such Credit Party of its obligations under the Pledge and Security Agreement and the other Collateral Documents (including, without limitation, its obligations (A) to execute and deliver (x) UCC financing statements, (y) originals of securities, instruments and chattel paper and (z) any agreements governing deposit and/or securities accounts as provided therein, and (B) to file intellectual property security agreements with the United States Patent and Trademark Office and the United States Copyright Office);

(ii) (A) to the extent required to be delivered by the Collateral Agent, the results of searches, by Persons satisfactory to Collateral Agent, of all effective UCC financing statements (or equivalent filings), fixture filings and all judgment and tax lien filings which may have been made with respect to any personal or mixed property of such Credit Party, and of filings with the United States Patent and Trademark Office and the United States Copyright Office, together with copies of all such filings disclosed by such searches, and (B) UCC termination statements (or similar documents), releases to be filed with the United States Patent and Trademark Office and the

United States Copyright Office, and other filings duly executed by all applicable Persons for filing in all applicable jurisdictions and offices as may be necessary to terminate any effective UCC financing statements (or equivalent filings) and other filings disclosed in such searches (other than any such financing statements in respect of Permitted Liens);

(iii) to the extent required to be delivered by the Collateral Agent, opinions of counsel (which counsel shall be reasonably satisfactory to Collateral Agent) with respect to the creation and perfection of the security interests in favor of Collateral Agent in the Collateral of such Credit Party and such other matters as Collateral Agent may reasonably request, in each case in form and substance reasonably satisfactory to Collateral Agent; and

(iv) evidence that such Credit Party shall have taken or caused to be taken any other action, executed and delivered or caused to be executed and delivered any other agreement, document and instrument (including without limitation, any intercompany notes evidencing Indebtedness permitted to be incurred pursuant to Section 6.1(b)) and made or caused to be made any other filing and recording (other than as set forth herein) reasonably required by Collateral Agent.

"Periodic Dividend Amount" means (x) $16,000,000 minus (y) the sum of the aggregate amount of Restricted Payments made pursuant to Section 6.5(d)(i) during the Fiscal Quarter in which the subject Restricted Payment is to be paid and the three Fiscal Quarters most recently ended.

"**Permitted Acquisition**" means any acquisition by Company or any of its wholly-owned Guarantor Subsidiaries, whether by purchase, merger or otherwise, of all or substantially all of the assets of, all of the Capital Stock of, or a business line or unit or a division of, any Person; provided, that: (i) immediately prior to, and after giving effect thereto, no Default or Event of Default shall have occurred and be continuing or would result therefrom; (ii) all transactions in connection therewith shall be consummated, in all material respects, in accordance with all applicable laws and in conformity with all applicable Governmental Authorizations; (iii) in the case of the acquisition of Capital Stock, all of the Capital Stock (except for any such Securities in the nature of directors' qualifying shares required pursuant to applicable law) acquired or otherwise issued by such Person or any newly formed Subsidiary of Company in connection with such acquisition shall be owned not less than 80% by Company or a Guarantor Subsidiary thereof, and Company shall have taken, or caused to be taken, each of the actions (and within the time periods) set forth in Sections 5.10 and/or 5.11, as applicable; (iv) any Person or assets or division as acquired in accordance herewith shall be in same business or lines of business in which Company and/or its Subsidiaries are engaged as of the Closing Date or any business reasonably related thereto; and (v) each such Permitted Acquisition shall be

effectuated pursuant to the terms of a consensual merger or stock purchase agreement or other consensual acquisition agreement between the Company or the applicable Subsidiary and the applicable seller or Person being so acquired.

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

"Permitted Loan Purchase" means one or more purchases by the Borrower of Loans that are not yet due and owing to any Lender; provided that (i) each offer to purchase Loans shall be for a minimum principal amount of not less than $5,000,000 (although the Loans actually purchased pursuant to such offer may be less than $5,000,000 if less than that amount is submitted for sale by Lenders in response to such purchase offer), (ii) the aggregate principal amount of all such purchases shall not exceed the lesser of (x) $50,000,000 and (y) Loan Purchase Limit then in effect, (iii) all such purchases shall be consummated on or before December 31, 2009, (iv) such purchases shall be implemented pursuant to an offer in the form of Exhibit A attached to the First Amendment, which offer is made to all Lenders; provided that the initial Permitted Loan Purchase shall be implemented pursuant to an offer in the form of Exhibit B attached to the First Amendment, (v) the Borrower shall not borrow under the Revolving Credit Facility for the purpose of funding any such Permitted Loan Purchase and (vi) the Borrower and the assigning Lender(s) shall have executed and delivered to Administrative Agent an Assignment Agreement pursuant to Section 10.6(d). Notwithstanding anything to the contrary in the foregoing, clauses (i) and (iv) of the preceding sentence will not apply with respect to Permitted Loan Purchases of up to $5,000,000 in aggregate principal amount purchased, provided such purchases otherwise meet the foregoing definition of a "Permitted Loan Purchase".

"**Permitted Refinancing**" means, with respect to any Indebtedness, extensions, renewals, refinancings or replacements of such Indebtedness provided that such extensions, renewals, refinancings or replacements (i) are on terms and conditions (including the terms and conditions of any guarantees of or other credit support for such Indebtedness) not materially less favorable taken as a whole to Company and its Subsidiaries, the Agents or the Lenders than the terms and conditions of the Indebtedness being extended, renewed, refinanced or replaced, (ii) do not add as an obligor any Person that would not have been an obligor under the Indebtedness being extended, renewed replaced or refinanced, (iii) do not result in a greater principal amount or shorter remaining average life to maturity than the Indebtedness being extended, renewed replaced or refinanced and (iv) are not effected at any time when a Default or Event of Default has occurred and is continuing or would result therefrom.

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

"**Phase I Report**" means, with respect to any Facility, a report that (i) conforms to the ASTM Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process, E 1527, (ii) was conducted no more than six months prior to the date such report is required to be delivered hereunder, by one or more environmental consulting firms

reasonably satisfactory to Administrative Agent, (iii) includes an assessment of asbestos-containing materials at such Facility, (iv) is accompanied by (a) an estimate of the reasonable worst-case cost of investigating and remediating any Hazardous Materials Activity identified in the Phase I Report as giving rise to an actual or potential material violation of any Environmental Law or as presenting a material risk of giving rise to a material Environmental Claim, and (b) a current compliance audit setting forth an assessment of Holdings', its Subsidiaries' and such Facility's current and past compliance with Environmental Laws and an estimate of the cost of rectifying any non-compliance with current Environmental Laws identified therein and the cost of compliance with reasonably anticipated future Environmental Laws identified therein.

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

"**Prepayment Amount**" has the meaning assigned to that term in Section 2.14(d).

"**Prime Rate**" means the rate of interest per annum announced from time to time by Credit Suisse as its prime commercial lending rate in effect at its principal office in New York City. The Prime Rate is a reference rate and does not necessarily represent the lowest or best rate actually charged to any customer. Credit Suisse or any other Lender may make commercial loans or other loans at rates of interest at, above or below the Prime Rate.

"**Principal Office**" means, Administrative Agent's "Principal Office" as set forth on Appendix B, or such other office as Administrative Agent may from time to time designate in writing to Borrower and each Lender.

"**Projections**" has the meaning assigned to that term in Section 4.8.

"**Pro Rata Share**" means: with respect to all payments, computations and other matters relating to the Term Loans of any Lender, the percentage obtained by dividing (a) the Term Loan Exposure of that Lender by (b) the aggregate Term Loan Exposure of all Lenders. For all other purposes with respect to each Lender, "Pro Rata Share" means the percentage obtained by dividing (A) an amount equal to the sum of the Term Loan Exposure of that Lender, by (B) an amount equal to the sum of the aggregate Term Loan Exposure of all Lenders.

"**Qualifying IPO**" means the consummation of the first underwritten public offering of the Capital Stock (other than Disqualified Capital Stock) of Holdings following the Closing Date pursuant to a registration statement filed with the Securities and Exchange Commission in accordance with the Securities Act.

"**Qualifying IPO Payment**" means, concurrent with the closing of a Qualifying IPO, the one-time payment to Sponsor in connection with the termination of the Management Services Agreement in an aggregate amount not to exceed $6,000,000.

"**Qualifying Preferred Stock Redemption**" means, concurrent with the closing of a Qualifying IPO, the payment of $1,000 to Aurora Equity Partners II L.P. and $1,000 to Ares Limited Partnership in respect of the redemption of the one share of Series B Preferred Stock and

Series C Preferred Stock held by Aurora Equity Partners II L.P. and the Ares Limited Partnership, respectively.

"**Qualifying Senior Notes Redemption**" means, concurrent with the closing of a Qualifying IPO, the Borrower and DD Finance (i) have given irrevocable and unconditional notice of redemption for all of the outstanding Senior Notes, (ii) have timely and irrevocably deposited or caused to be deposited with the trustee under the Senior Notes Indenture proceeds of a Qualifying IPO, proceeds of Additional Term Loans, Cash and/or proceeds of Revolving Loans (as defined in the Revolving Credit Facility) sufficient to pay and discharge the entire indebtedness (including all principal, premium, if any, and accrued interest) on all outstanding Senior Notes and (iii) have satisfied all other conditions precedent to the discharge of the Senior Notes Indenture set forth in Section 8.8 of the Senior Notes Indenture.

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

"**Real Estate Asset Deliverables**" means, with respect to any Real Estate Asset acquired by any Credit Party, or held by any Person that becomes a Credit Party, and to the extent required to be delivered pursuant to Section 5.11:

(i) fully executed and notarized Mortgages, in proper form for recording in all appropriate places in all applicable jurisdictions, encumbering such Real Estate Asset;

(ii) at the request of the Collateral Agent, an opinion of counsel (which counsel shall be reasonably satisfactory to Collateral Agent) in each state in which such Real Estate Asset is located with respect to the enforceability of the form(s) of Mortgages to be recorded in such state and such other matters as Collateral Agent may reasonably request, in each case in form and substance reasonably satisfactory to Collateral Agent;

(iii) at the request of the Collateral Agent, (a) ALTA mortgagee title insurance policies or unconditional commitments therefore issued by one or more title companies reasonably satisfactory to Collateral Agent with respect to such Real Estate Asset, in amounts satisfactory to the Collateral Agent with respect to such Real Estate Asset, together with a title report issued by a title company with respect thereto (each, a "**Title Policy**") and dated as of a recent date prior to the date which such Real Estate Asset is acquired or such Person becomes a Credit Party, as the case may be, and copies of all recorded documents listed as exceptions to title or otherwise referred to therein, each in form and substance reasonably satisfactory to Collateral Agent and (b) evidence satisfactory to Collateral Agent that such Credit Party has paid to

the title company or to the appropriate governmental authorities all expenses and premiums of the title company and all other sums required in connection with the issuance of each Title Policy and all recording and stamp taxes (including mortgage recording and intangible taxes) payable in connection with recording the Mortgages for such Real Estate Asset in the appropriate real estate records;

(iv) evidence of flood insurance with respect to each Flood Hazard Property that is located in a community that participates in the National Flood Insurance Program, in each case in compliance with any applicable regulations of the Board of Governors of the Federal Reserve System, in form and substance reasonably satisfactory to Collateral Agent; and

(v) at the request of the Collateral Agent, ALTA surveys of such Real Estate Asset, certified to Collateral Agent and dated as of a recent date which such Real Estate Asset is acquired or such Person becomes a Credit Party, as the case may be.

"**Register**" has the meaning assigned to that term in Section 2.6(b).

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

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

"**Related Lender Assignment**" has the meaning assigned to that term in Section 10.6(c).

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

"**Replacement Lender**" has the meaning assigned to that term in Section 2.22.

"**Requisite Lenders**" means one or more Lenders having or holding Term Loan Exposure and representing more than 50% of the sum of the aggregate Term Loan Exposure of all Lenders.

"**Restricted Payment**" means (i) any dividend or other distribution (including, for the avoidance of doubt, any payment pursuant to Section 6.5(d)), direct or indirect, on account of any shares of any class of stock (or of any other Capital Stock) of Holdings or Company now or hereafter outstanding, except a dividend payable solely in shares of that class of stock to the holders of that class; (ii) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any shares of any class of stock (or of any other Capital Stock) of Holdings or Company now or hereafter outstanding; (iii) any payment made to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire shares of any class of stock (or of any other Capital Stock) of Holdings or Company now or hereafter outstanding; (iv) management or similar fees payable to Sponsor or any of its Affiliates; and (v) any payment or prepayment of principal of, premium, if any, or interest on, or redemption, purchase, retirement, defeasance (including in-substance or legal defeasance), sinking fund or similar payment with respect to, any Indebtedness permitted pursuant to Sections 6.1(b), 6.1(e) (in respect of Indebtedness incurred under Sections 6.1(b), 6.1(k) (to the extent constituting subordinated Indebtedness) or 6.1(m)), 6.1(k) (to the extent constituting subordinated Indebtedness) or 6.1(m). Notwithstanding anything to the contrary contained herein, (i) the redemption of the Senior Notes pursuant to the Qualifying Senior Notes Redemption shall not be treated as a Restricted Payment for any purpose hereunder, (ii) the Qualifying IPO Payment shall not be treated as a Restricted Payment for any purpose hereunder, and (iii) the redemption by Holdings of any preferred stock of Holdings pursuant to a Qualifying Preferred Stock Redemption shall not be treated as a Restricted Payment for any purpose hereunder.

"**Restricted Payment Amount**" means, as of any date of determination, an amount set forth on the Restricted Payment Certificate delivered to the Administrative Agent no later than 10:00 a.m. (New York City time) at least three (3) Business Days in advance of the payment date of the transaction giving rise to a determination of the Restricted Payment Amount (which can be less than zero), equal to (a) the difference (but not less than zero) between (i) Restricted Payment EBITDA and (ii) the product of 2.0 multiplied by Cumulative Interest Expense (determined, in each case, for the period commencing on the first day of the first full Fiscal Quarter after the Closing Date through and including the last full Fiscal Quarter (taken as one accounting period) preceding such date of determination), plus (b) 100% of the aggregate net cash proceeds received by the Company from a capital contribution or sale of Capital Stock to Holdings after the Closing Date, plus (c) except in each case, in order to avoid duplication, to the extent any such payment or proceeds have been included in the calculation of Restricted Payment EBITDA, an amount equal to the net amounts received in respect of Investments made under Section 6.7(l) or 6.7(m) in any Person resulting from cash distributions on or cash repayments of any Investments, including payments of interest on Indebtedness, dividends, repayments of loans or advances, or other distributions or other transfers of assets, in each case to Company, DD Finance, Fisher or any of their respective Subsidiaries or from the net cash proceeds from the sale of any such Investment, not to exceed, in each case, the amount of Investments previously made by Company, DD Finance, Fisher or any of their respective Subsidiaries in such Person, less the cost of disposition (and excluding Investments in Subsidiaries), minus (d) the sum of (i) the aggregate amount of Restricted Payments made pursuant to Sections 6.5(a)(ii) (other than to the Company or a wholly-owned Subsidiary Guarantor) and 6.5(c)(iv); and (ii) (without duplication) amounts applied or utilized pursuant to Section 6.5(d)(i), Section 6.5(f), Section 6.7(l) or Section 6.7(m) or Section 6.16(d). For

purposes of this definition, (i) the amount of any payment or Investment made or returned hereunder, if other than in cash, shall be the fair market value thereof, as determined in the good faith reasonable judgment of the board of directors of the Company (or similar governing body) for such payments or Investments with a value in excess of $1.0 million, and otherwise by an executive officer of the Company at the time made or returned, as applicable, (ii) interest with respect to Capital Leases shall be deemed to accrue at an interest rate reasonably determined in good faith by the Company to be the rate of interest implicit in such Capital Lease in accordance with GAAP and (iii) interest expense attributable to any Indebtedness represented by the guarantee by the Company or any of its Subsidiaries of an obligation of another Person shall be deemed to be the interest expense attributable to the Indebtedness guaranteed. Notwithstanding anything to the contrary contained herein, (i) the redemption of the Senior Notes pursuant to the Qualifying Senior Notes Redemption shall not reduce the Restricted Payment Amount for any purpose hereunder, (ii) the Qualifying IPO Payment shall not reduce the Restricted Payment Amount for any purpose hereunder, (iii) the proceeds of a Qualifying IPO shall not increase the Restricted Payment Amount for any purpose hereunder, and (iv) the redemption of preferred stock of Holdings pursuant to the Qualifying Preferred Stock Redemption shall not reduce the Restricted Payment Amount for any purpose hereunder.

"**Restricted Payment Certificate**" means a Restricted Payment Certificate substantially in the form of Exhibit K.

"**Restricted Payment EBITDA**" means, for any period and without duplication, (a) Consolidated Adjusted EBITDA for such period,plus (b) the sum of each of the following to the extent deducted in the calculation of Consolidated Net Income for such period, (i) all losses which are non-recurring, (ii) interest attributable to Attributable Indebtedness, and (iii) the amount of all dividends accrued or payable (whether or not in cash) by the Company or any of its Subsidiaries in respect of preferred stock (other than (A) dividends on Capital Stock (other than Disqualified Capital Stock) of the Company or such Subsidiary payable solely in Capital Stock (other than Disqualified Capital Stock) of the Company or such Subsidiary, as applicable, and (B) dividends by Subsidiaries of the Company to the Company or its wholly-owned Subsidiaries), plus (c) the aggregate amount of interest income of the Company and its Subsidiaries during such period paid in cash to the extent reducing Consolidated Adjusted EBITDA minus (d) all gains which are non-recurring (including any gain from the issuance or sale of any Capital Stock) to the extent included in the calculation of Consolidated Net Income for such period.

"**Revolving Credit Document**" all documents, instruments or agreements executed and delivered by Holdings or any of its subsidiaries for the benefit of any agent or lender in connection with the Revolving Credit Facility.

"**Revolving Credit Facility**" means the $60.0 million senior secured revolving credit facility pursuant to the revolving credit agreement dated as of the Closing Date among Holdings, the Company, Fisher, DD Finance, the lenders party thereto, Credit Suisse as administrative agent and JPMorgan Chase Bank, N.A., as collateral agent, as it may be amended, modified, refinanced or replaced from time to time, including amendments increasing the principal amount of revolving loans available thereunder.

"**RP Conditions"** means (i) the sum of (x) the aggregate amount of Cash of the Borrower in Deposit Accounts subject to a Blocked Account Agreement and (y) Excess Availability (as defined in the Revolving Credit Facility) is at least $12,000,000; provided, that Excess Availability will be calculated without giving effect to any Cash, and (ii) the Leverage Ratio is less than 6.0 to 1.0.

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

"**Second Amendment**" means Amendment No. 2 to Credit and Guaranty Agreement, dated as of April 16, 2010, among the Company and the Lenders party thereto.

"**Second Amendment Effective Date**" means the date on which the Second Amendment became effective in accordance with its terms.

"**Second Offer**" has the meaning assigned to that term in Section 2.14(d).

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

"Secured Debt Ratio" means the ratio as of the date of determination of (i) Consolidated Secured Debt, less unrestricted Cash and Cash Equivalents of the Company and its Subsidiaries in excess of $1,000,000, the contents of which are in a Blocked Account, as of such date, to (ii) Consolidated Adjusted EBITDA for the Test Period most recently ended.

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

"Section 6.5(d) Certificate" means a certificate of an Authorized Officer (i) certifying that the conditions to the making of a Restricted Payment set forth in Section 6.5(d)(i) have been satisfied and (ii) designating the portion of such Restricted Payment made in reliance upon (x) the Periodic Dividend Amount and (y) the Restricted Payment Amount. Any such designation made pursuant to clause (ii) of the preceding sentence shall be permanent.

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

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

"**Senior Notes**" means the Senior Notes issued pursuant to the Senior Notes Indenture.

"**Senior Notes Indenture**" means that certain Indenture dated as of December 16, 2004, by and among the Company, DD Finance and U.S. Bank National Association, as Indenture Trustee, governing the Company's 7 ¾% Senior Notes due 2012.

"**Solvency Certificate**" means a Solvency Certificate of the chief financial officer of Holdings and Borrower substantially in the form of Exhibit G.

"**Solvent**" means, with respect to any Person, that as of the date of determination both (A) (i) the then fair saleable value of the property of such Person is

(y) greater than the total amount of liabilities (including contingent liabilities) of such Person and (z) not less than the amount that will be required to pay the probable liabilities on such Person's then existing debts as they become absolute and matured considering all financing alternatives and potential asset sales reasonably available to such Person; (ii) such Person's capital is not unreasonably small in relation to its business or any contemplated or undertaken transaction; and (iii) such Person has not incurred and does not intend to incur, or believe (nor should it reasonably believe) that it will incur, debts beyond its ability to pay such debts as they become due (whether at maturity or otherwise); and (B) such Person is "solvent" within the meaning given that term and similar terms under applicable laws relating to fraudulent transfers and conveyances. For purposes of this definition, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"**Sponsor**" means, collectively, the Aurora Group Investors, the Ares Group Investors and the Affiliates (without giving effect to clause (i) of the last sentence of the definition of such term) of Aurora Management Partners LLC or Ares Management LLC.

"**Subject Transaction**" has the meaning assigned to that term in Section 6.8(c)(i).

"**Subsidiary**" means, with respect to any Person, any corporation, partnership, limited liability company, association, joint venture or other business entity of which more than 50% of the total voting power of shares of stock or other ownership interests entitled (without regard to the occurrence of any contingency) to vote in the election of the Person or Persons (whether directors, managers, trustees or other Persons performing similar functions) having the power to direct or cause the direction of the management and policies thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof; provided, in determining the percentage of ownership interests of any Person controlled by another Person, no ownership interest in the nature of a "qualifying share" of the former Person shall be deemed to be outstanding.

"**Tax**" means, with respect to any Person, any present or future tax, levy, impost, duty, assessment, charge, fee, deduction or withholding of any nature and whatever called, by whomsoever, on whomsoever and wherever imposed, levied, collected, withheld or assessed; provided, however, solely for purposes of Sections 2.18 and 2.19, the foregoing shall not include (a) taxes imposed on or measured by such Person's overall net income (however denominated), and franchise taxes imposed on such Person (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which such Person is organized or in which its principal office is located or, in the case of any Lender, in which its applicable lending office

is located, (b) any branch profits taxes imposed by the United States of America or any similar tax imposed by any other jurisdiction in which Company is located and (c) in the case of a Non-US Lender, any withholding tax that is imposed on amounts payable to such Lender at the time such Lender becomes a party hereto (or designates a new lending office) or is attributable to such Lender's failure (other than as a result of a Change in Law) to comply with Section 2.19(c), except to the extent that such Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts from Company with respect to such withholding tax pursuant to Section 2.19(a) or Section 2.19(b).

"**Term Loan**" means, collectively, the Term Loans outstanding on the Second Amendment Effective Date (other than Additional Term Loans made pursuant to the Second Amendment) and the Additional Term Loans.

"**Term Loan Commitment**" means the commitment of a Lender to make or otherwise fund any Term Loan and "**Term Loan Commitments**" means such commitments of all Lenders in the aggregate.

"**Term Loan Exposure**" means, with respect to any Lender as of any date of determination, the outstanding principal amount of the Term Loans of such Lender; provided, at any time prior to the making of the Additional Term Loans, the Term Loan Exposure of any Lender shall be equal to the principal amount of the Term Loans of such Lender outstanding on the Second Amendment Effective Date (other than Additional Term Loans) plus such Additional Lender's Term Loan Commitment.

"**Term Loan Joinder Agreement**" means the Term Loan Joinder Agreement, dated as of the Second Amendment Effective Date, among the Company, the Administrative Agent and the Lenders party thereto.

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

"**Term Priority Collateral**" has the meaning assigned to that term in the Intercreditor Agreement.

"**Terminated Lender**" has the meaning assigned to that term in Section 2.22.

"**Test Period**" means, at any time, the four Fiscal Quarters last ended (in each case taken as one accounting period) for which financial statements are required to have been delivered, pursuant to Section 5.1(b).

"**Title Policy**" has the meaning assigned to that term in the definition of "Real Estate Asset Deliverables."

"**Type of Loan**" means a Base Rate Loan or a Eurodollar Rate Loan.

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

Accounting Terms. Except as otherwise expressly provided herein, all accounting terms not otherwise defined herein shall have the meanings assigned to them in conformity with GAAP. Financial statements and other information required to be delivered by Holdings to Lenders pursuant to Section 5.1(b) and 5.1(c) shall be prepared in accordance with GAAP as in effect at the time of such preparation (and delivered together with the reconciliation statements provided for in Section 5.1(e), if applicable). Subject to the foregoing, calculations in connection with the definitions, covenants and other provisions hereof shall utilize accounting principles and policies in conformity with those used to prepare the most recent financial statements referred to in Section 4.7; provided that, solely for purposes of calculating the Restricted Payment Amount, the terms used in, or otherwise relating to, the definition of "Restricted Payment Amount" shall, except as otherwise expressly provided herein, have the meanings assigned to them in conformity with GAAP as in effect from time to time.

Interpretation, etc. Any of the terms defined herein may, unless the context otherwise requires, be used in the singular or the plural, depending on the reference. References herein to any Section, Appendix, Schedule or Exhibit shall be to a Section, an Appendix, a Schedule or an Exhibit, as the case may be, hereof unless otherwise specifically provided. The use herein of the word "include" or "including," when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not no limiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter.

SECTION 2. LOANS

Term Loans.

(a) Loan Commitments. Subject to the terms and conditions hereof, (i) each Lender existing on the Closing Date made a Term Loan to the Company on the Closing Date, and (ii) each Additional Term Loan Lender has, pursuant to the Term Loan Joinder Agreement, severally agreed to make, on the Second Amendment Effective Date, an Additional Term Loan to the Company in an amount equal to such Lender's Additional Term Loan Commitment as set forth in the Term Loan Joinder Agreement. Any amount borrowed under this Section 2.1(a) and subsequently repaid or prepaid may not be reborrowed. Subject to Sections 2.11, 2.12 and 2.13, (i) all amounts owed hereunder with respect to the Term Loans (other than the Additional Term Loans) shall be paid in full no later than the Maturity Date and (ii) all amounts owed hereunder with respect to the Additional Term Loans shall be paid in full no later than the Additional Term Loan Maturity Date. Each Lender's Additional Term Loan Commitment shall terminate immediately and without further action on the Second Amendment Effective Date after giving effect to the funding of such Lender's Additional Term Loan Commitment pursuant to the Term Loan Joinder Agreement on such date.

(b) Borrowing Mechanics for Term Loans.

(i) In the case of Term Loans (other than Additional Term Loans), Company shall deliver to Administrative Agent a fully executed and delivered Funding Notice no later than 10:00 a.m. (New York City time) at least (x) three (3) Business Days in advance of the Closing Date in the case of a Eurodollar Rate Loan to be made on the Closing Date or (y) one (1) Business Day in advance of the Closing Date in the case of a Base Rate Loan to be made on the Closing Date. Promptly upon receipt by Administrative Agent of such Funding Notice, Administrative Agent shall notify each Lender of the proposed borrowing. In the case of Additional Term Loans, the borrowing procedures are set forth in the Term Loan Joinder Agreement.

(c) In the case of Term Loans (other than Additional Term Loans) each Lender shall make its Term Loan available to Administrative Agent not later than 12:00 p.m. (New York City time) on the Closing Date by wire transfer of same day funds in Dollars, at Administrative Agent's Principal Office. Except as provided herein, upon satisfaction or waiver of the conditions precedent specified herein, Administrative Agent shall make the proceeds of the Term Loans (other than Additional Term Loans) available to Company on the Closing Date by causing an amount of same day funds in Dollars equal to the proceeds of all such Loans received by Administrative Agent from Lenders to be credited to the account of Company at Administrative Agent's Principal Office or to such other account as may be designated in such Funding Notice.

[RESERVED]

[RESERVED]

Pro Rata Shares; Availability of Funds.

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

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

day from such Credit Date until the date such amount is paid to Administrative Agent, at the customary rate set by Administrative Agent for the correction of errors among banks for three (3) Business Days and thereafter at the Base Rate. If such Lender does not pay such corresponding amount forthwith upon Administrative Agent's demand therefor, Administrative Agent shall promptly notify Borrower and Borrower shall immediately pay such corresponding amount to Administrative Agent together with interest thereon, for each day from such Credit Date until the date such amount is paid to Administrative Agent, at the rate applicable to such Loan. Nothing in this Section 2.4(b) shall be deemed to relieve any Lender from its obligation to fulfill its Term Loan Commitments hereunder or to prejudice any rights that Borrower may have against any Lender as a result of any default by such Lender hereunder.

Use of Proceeds. The proceeds of Term Loans drawn on the Closing Date shall be used to repay outstanding obligations under the Existing Credit Agreement and pay transaction expenses. The proceeds of Additional Term Loans shall be used to repay outstanding Senior Notes. No portion of the proceeds of any Credit Extension shall be used in any manner that causes or might cause such Credit Extension or the application of such proceeds to violate Regulation T, Regulation U or Regulation X of the Board of Governors of the Federal Reserve System or any other regulation thereof or to violate the Exchange Act.

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

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

(b) Register. Administrative Agent shall maintain at its Principal Office a register for the recordation of the names and addresses of Lenders and Loans of each Lender from time to time (the "**Register**"). In the case of a Related Lender Assignment described in Section 10.6(e) that is not reflected in the Register, the assigning Lender shall maintain a comparable register, which shall be made available for inspection by Administrative Agent at any reasonable time and from time to time upon reasonable prior notice to such Lender. The Register shall be available for inspection by Borrower or any Lender at any reasonable time and from time to time upon reasonable prior notice. Administrative Agent shall record in the Register the Loans, and each repayment or prepayment in respect of the principal amount of the Loans, and any such recordation shall be conclusive and binding on Borrower and each Lender, absent manifest error; provided, failure to make any such recordation, or any error in such recordation, shall not affect Borrower's Obligations in respect of any Loan. Borrower hereby designates Credit Suisse to serve as Borrower's agent solely for purposes of maintaining the Register as provided in this Section 2.6, and Borrower hereby agrees that, to

the extent Credit Suisse serves in such capacity, Credit Suisse and its officers, directors, employees, agents and affiliates shall constitute "Indemnitees."

(c) Notes. If so requested by any Lender by written notice to Borrower at least two (2) Business Days prior to the Closing Date, or at any time thereafter, Borrower shall execute and deliver to such Lender (and/or, if applicable and if so specified in such notice, to any Person who is an assignee of such Lender pursuant to Section 10.6, other than an assignee party to a Related Lender Assignment described in Section 10.6(e)) on the Closing Date (or, if such notice is delivered after the Closing Date, promptly after Borrower's receipt of such notice) a Note or Notes to evidence such Lender's Term Loan.

Interest on Loans.

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

(i) if a Base Rate Loan, at the Base Rate plus the Applicable Margin; or

(ii) if a Eurodollar Rate Loan, at the Adjusted Eurodollar Rate plus the Applicable Margin.

(b) The basis for determining the rate of interest with respect to any Loan, and the Interest Period with respect to any Eurodollar Rate Loan, shall be selected by Borrower and notified to Administrative Agent and Lenders pursuant to the applicable Funding Notice or Conversion/Continuation Notice, as the case may be. If on any day a Loan is outstanding with respect to which a Conversion/Continuation Notice has not been delivered to Administrative Agent in accordance with the terms hereof specifying the applicable basis for determining the rate of interest, then for that day such Loan shall be a Base Rate Loan.

(c) In connection with Eurodollar Rate Loans there shall be no more than ten (10) Interest Periods outstanding at any time. In the event Borrower fails to specify between a Base Rate Loan or a Eurodollar Rate Loan in the applicable Funding Notice or Conversion/Continuation Notice, such Loan (if outstanding as a Eurodollar Rate Loan) will be automatically converted into a Base Rate Loan on the last day of the then-current Interest Period for such Loan (or if outstanding as a Base Rate Loan will remain as, or (if not then outstanding) will be made as, a Base Rate Loan). In the event Borrower fails to specify an Interest Period for any Eurodollar Rate Loan in the applicable Funding Notice or Conversion/Continuation Notice, Borrower shall be deemed to have selected an Interest Period of one month. As soon as practicable after 10:00 a.m. (New York City time) on each Interest Rate Determination Date, Administrative Agent shall determine (which determination shall,

absent manifest error, be final, conclusive and binding upon all parties) the interest rate that shall apply to the Eurodollar Rate Loans for which an interest rate is then being determined for the applicable Interest Period and shall promptly give notice thereof (in writing or by telephone confirmed in writing) to Borrower and each Lender.

(d) Interest payable pursuant to Section 2.7(a) shall be computed (i) in the case of Base Rate Loans at times when the Base Rate is based on the Prime Rate on the basis of a 365-day or 366-day year, as the case may be, and (ii) in the case of Eurodollar Rate Loans, and Base Rate Loans at times when the Base Rate is based on the Federal Funds Effective Rate, on the basis of a 360-day year, in each case for the actual number of days elapsed in the period during which it accrues. In computing interest on any Loan, the date of the making of such Loan or the first day of an Interest Period applicable to such Loan or, with respect to a Base Rate Loan being converted from a Eurodollar Rate Loan, the date of conversion of such Eurodollar Rate Loan to such Base Rate Loan, as the case may be, shall be included, and the date of payment of such Loan or the expiration date of an Interest Period applicable to such Loan or, with respect to a Base Rate Loan being converted to a Eurodollar Rate Loan, the date of conversion of such Base Rate Loan to such Eurodollar Rate Loan, as the case may be, shall be excluded; provided, if a Loan is repaid on the same day on which it is made, one day's interest shall be paid on that Loan.

(e) Except as otherwise set forth herein, interest on each Loan shall be payable in arrears on and to (i) each Interest Payment Date applicable to such Loan; (ii) upon any prepayment of such Loan that is a Eurodollar Rate Loan, whether voluntary or mandatory, to the extent accrued on the amount being prepaid; and (iii) at maturity, including final maturity.

(f) To the extent any other Credit Document references "Loans", "Term Loans" or loans made under this Agreement for purposes of determining the applicable interest rate (excluding any reference in connection with the payment of interest on the principal amount of the Loans) and without specifying whether such reference is intended to mean "Term Loans" or "Additional Term Loans", each such reference shall be interpreted to mean "Additional Term Loans".

Conversion/Continuation.

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

(i) to convert at any time all or any part of any Term Loan equal to $2,000,000 and integral multiples of $500,000 in excess of that amount from one Type of Loan to another Type of Loan; provided, a Eurodollar Rate Loan may only be converted on the expiration of

the Interest Period applicable to such Eurodollar Rate Loan unless Borrower shall pay all amounts due under Section 2.17 in connection with any such conversion; or

(ii) upon the expiration of any Interest Period applicable to any Eurodollar Rate Loan, to continue all or any portion of such Loan equal to $2,000,000 and integral multiples of $500,000 in excess of that amount as a Eurodollar Rate Loan.

(b) Borrower shall deliver a Conversion/Continuation Notice to Administrative Agent no later than 10:00 a.m. (New York City time) at least one Business Day in advance of the proposed conversion date (in the case of a conversion to a Base Rate Loan) and at least three (3) Business Days in advance of the proposed conversion/continuation date (in the case of a conversion to, or a continuation of, a Eurodollar Rate Loan). Except as otherwise provided herein, a Conversion/Continuation Notice for conversion to, or continuation of, any Eurodollar Rate Loans (or telephonic notice in lieu thereof) shall be irrevocable, and Borrower shall be bound to effect a conversion or continuation in accordance therewith.

Default Interest. Upon the occurrence and during the continuance of an Event of Default under Sections 8.1(a), 8.1(f) or 8.1(g), the principal amount of all Loans outstanding and, to the extent permitted by applicable law, any interest payments on the Loans not paid when due and any fees and other amounts then due and payable hereunder, shall thereafter bear interest (including post-petition interest in any proceeding under the Bankruptcy Code or other applicable bankruptcy laws) payable on demand at a rate that is 2% per annum in excess of the interest rate otherwise payable hereunder with respect to the applicable Loans (or, in the case of any such fees and other amounts, at a rate which is 2% per annum in excess of the interest rate otherwise payable hereunder for Base Rate Loans constituting Term Loans (other than Additional Term Loans) or Additional Term Loans, as applicable); provided, in the case of Eurodollar Rate Loans, upon the expiration of the Interest Period in effect at the time any such

increase in interest rate is effective such Eurodollar Rate Loans shall thereupon become Base Rate Loans and shall thereafter bear interest payable upon demand at a rate which is 2% per annum in excess of the interest rate otherwise payable hereunder for Base Rate Loans constituting Term Loans (other than Additional Term Loans) or Additional Term Loans, as applicable. Payment or acceptance of the increased rates of interest provided for in this Section 2.9 is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of Administrative Agent, Collateral Agent or any Lender.

Fees. Company agrees to pay to Arranger and Agents such other fees and other payments in the amounts and at the times separately agreed upon.

Scheduled Term Loan Payments. The principal amounts of the Term Loans shall be repaid in consecutive quarterly installments in amounts equal to 0.25% of the Term

Loans funded on the Closing Date or the Second Amendment Effective Date, as applicable, on the last day of each Fiscal Quarter, with the balance of the Term Loans (other than the Additional Term Loans) payable on the Maturity Date and the balance of the Additional Term Loans payable on the Additional Term Loan Maturity Date (each of such consecutive quarterly installments and the payment of the balances on the Maturity Date and the Additional Term Loan Maturity Date, an "**Installment**").

Notwithstanding the foregoing, (x) such Installments shall be reduced pro rata in connection with any voluntary or mandatory prepayments of the Term Loans in accordance with Sections 2.12, 2.13 and 2.14, as applicable; (y) the Term Loans (other than the Additional Term Loans), together with all other amounts owed hereunder with respect thereto, shall, in any event be paid in full no later than the Maturity Date and (z) the Additional Term Loans, together with all other amounts owed hereunder with respect thereto, shall, in any event be paid in full no later than the Additional Term Loan Maturity Date.

Voluntary Prepayments.

(a) Voluntary Prepayments.

(i) Any time and from time to time:

(1) with respect to Base Rate Loans, Borrower may prepay any such Loans on any Business Day in whole or in part, in an aggregate minimum amount of $2,000,000 and integral multiples of $500,000 in excess of that amount; and

(2) with respect to Eurodollar Rate Loans, Borrower may prepay any such Loans on any Business Day in whole or in part in an aggregate minimum amount of $2,000,000 and integral multiples of $500,000 in excess of that amount;

(ii) All such prepayments shall be made:

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

(2) upon not less than three (3) Business Days' prior written or telephonic notice in the case of Eurodollar Rate Loans;

in each case given to Administrative Agent by 12:00 p.m. (New York City time) on the date required and, if given by telephone, promptly confirmed in writing to Administrative Agent (and

Administrative Agent will promptly notify each Lender). Upon the giving of any such notice (which notice shall be irrevocable), the principal amount of the Loans specified in such notice shall become due and payable on the prepayment date specified therein. Any such voluntary prepayment shall be applied as specified in Section 2.14(a).

Mandatory Prepayments.

(a) Asset Sales. No later than the first Business Day following the date of receipt by Holdings or any of its Subsidiaries of any Net Asset Sale Proceeds, Company shall offer to prepay the Loans as set forth in Sections 2.14(b) and 2.14(d) in an aggregate amount equal to such Net Asset Sale Proceeds; provided, so long as no Default or Event of Default shall have occurred and be continuing on or as of such first Business Day, Company shall have the option (exercisable upon written notice thereof to Administrative Agent on or prior to such first Business Day), directly or through one or more of its Subsidiaries, to invest Net Asset Sale Proceeds within three hundred and sixty five (365) days of receipt thereof in long-term productive assets of the general type used in the business of Company and its Subsidiaries or to make capital expenditures in connection with improvement of capital assets of Company or any of its Subsidiaries (it being expressly agreed that any Net Asset Sale Proceeds not so invested shall be immediately offered to be applied as set forth in Sections 2.14(b) and 2.14(d)); provided, further, pending any such investment at any time that Net Asset Sale Proceeds not so invested shall equal or exceed $5,000,000 in the aggregate, an amount equal to all such Net Asset Sale Proceeds shall be deposited by Company, unless waived by Administrative Agent in its sole discretion, in a deposit account maintained at Administrative Agent as part of the Collateral (it being understood that, (x) so long as no Default or Event of Default shall have occurred and be continuing, Administrative Agent shall release or consent to the release of such funds to Company upon delivery to Administrative Agent of a certificate of an officer of Company certifying that such funds shall, upon release of such funds, be applied in accordance this Section 2.13(a) and (y) to the extent such amounts are not applied in accordance with, and at the times required by, this Section 2.13(a), all such funds then held by Administrative Agent shall be immediately applied by Administrative Agent, or immediately paid over to Administrative Agent to be applied, as set forth in Section 2.14(b)); provided, further, that notwithstanding the foregoing, the Net Asset Sale Proceeds from any sale leaseback transaction permitted pursuant to Section 6.1(n) hereof shall be offered to be applied as set forth in Sections 2.15(b) and 2.14(d).

(b) Insurance/Condemnation Proceeds. No later than the first Business Day following the date of receipt by Holdings or any of its Subsidiaries, or Administrative Agent as loss payee, of any Net Insurance/Condemnation Proceeds, Company shall offer to prepay the Loans as set forth in Sections 2.14(b) and 2.14(d) in an aggregate amount equal to such Net Insurance/Condemnation Proceeds; provided, so long as no Default or Event of Default shall have occurred and be continuing on or as of such first Business Day, Company shall have the option (exercisable upon written notice thereof to Administrative Agent on or prior to such first Business Day), directly or through one or more of its Subsidiaries to invest such Net Insurance/Condemnation Proceeds within three hundred and sixty five (365) days of receipt thereof in long-term productive assets of the general type used in the business of Holdings and its

Subsidiaries, which investment may include the repair, restoration or replacement of the applicable assets thereof (it being expressly agreed that any Net Insurance/Condemnation Proceeds not so invested shall immediately be offered to be applied as set forth in Sections 2.14(b) and 2.14(d)); provided, further, pending any such investment at any time that Net Insurance/Condemnation Proceeds not so invested shall equal or exceed $5,000,000 in the aggregate, an amount equal to all such Net

Insurance/Condemnation Proceeds shall be deposited by Company, unless waived by Administrative Agent in its sole discretion, in a deposit account maintained at Administrative Agent (it being understood that, (x) so long as no Default or Event of Default shall have occurred and be continuing, Administrative Agent shall release or consent to the release of such funds to Company upon delivery to Administrative Agent of a certificate of an officer of Company certifying that such funds shall, upon release of such funds, be applied in accordance this Section 2.13(b) and (y) to the extent such amounts are not applied in accordance with, and at the times required by, this Section 2.13(b), all such funds then held by Administrative Agent shall be immediately applied by Administrative Agent, or immediately paid over to Administrative Agent to be applied, as set forth in Section 2.14(b)).

(c) Issuance of Debt. No later than the first Business Day following the date of receipt by Holdings or any of its Subsidiaries of any Cash proceeds from the incurrence of any Indebtedness of Holdings or any of its Subsidiaries (other than with respect to any Indebtedness permitted to be incurred pursuant to Section 6.1), Company shall offer to prepay the Loans as set forth in Sections 2.14(b) and 2.14(d) in an aggregate amount equal to 100% of such proceeds, net of underwriting discounts and commissions and other reasonable costs and expenses associated therewith, including reasonable legal fees and expenses.

(d) Consolidated Excess Cash Flow. In the event that there shall be Consolidated Excess Cash Flow for any Fiscal Year (commencing with Fiscal Year 2008), Company shall, no later than one hundred fifty (150) days after the end of such Fiscal Year, offer to prepay the Loans as set forth in Sections 2.14(b) and 2.14(d) in an aggregate amount equal to 50% of such Consolidated Excess Cash Flow.

(e) Prepayment Certificate. Concurrently with any prepayment of the Loans pursuant to Sections 2.13(a) through 2.13(d), Company shall deliver to Administrative Agent a certificate of an Authorized Officer demonstrating the calculation of the amount of the applicable net proceeds or Consolidated Excess Cash Flow as the case may be. In the event that Company shall subsequently determine that the actual amount received exceeded the amount set forth in such certificate, Company shall promptly make an additional prepayment of the Loans and Company shall concurrently therewith deliver to Administrative Agent a certificate of an Authorized Officer demonstrating the derivation of such excess.

Application of Prepayments/Reductions.

(a) Application of Voluntary Prepayments. Any prepayment of any Loan pursuant to Section 2.12 shall be applied to prepay Term Loans on a pro rata basis to the remaining scheduled Installments of principal of the Term Loans.

(b) Application of Mandatory Prepayments. Subject to Section 2.14(d), any prepayment of any Loan pursuant to Section 2.13 shall be applied to prepay Term Loans on a pro rata basis to the remaining scheduled Installments of principal of the Term Loans.

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

(d) Lender Opt-out. With respect to any prepayment of Term Loans pursuant to Section 2.13, any Lender, at its option, may elect not to accept such prepayment. Upon the dates set forth in Section 2.13 for any such prepayment of Term Loans, the Borrower shall notify the Administrative Agent of the amount that is available to prepay the Term Loans (the "**Prepayment Amount**"). Promptly after the date of receipt of such notice, the Administrative Agent shall provide written notice (the "**First Offer**") to the Lenders of the amount available to prepay the Term Loans. Any Lender declining such prepayment (a "**Declining Lender**") shall give written notice thereof to the Administrative Agent by 11:00 a.m. no later than two (2) Business Days after the date of such notice from the Administrative Agent. On such date the Administrative Agent shall then provide written notice (the "**Second Offer**") to the Lenders other than the Declining Lenders (such Lenders being the "**Accepting Lenders**") of the additional amount available (due to such Declining Lenders' declining such prepayment) to prepay Term Loans owing to such Accepting Lenders, such available amount to be allocated on a pro rata basis among the Accepting Lenders that accept the Second Offer. Any Lender declining prepayment pursuant to such Second Offer shall give written notice thereof to the Administrative Agent by 11:00 a.m. no later than one (1) Business Day after the date of such notice of a Second Offer. The Borrower shall prepay the Loans as set forth in Section 2.13 within one Business Day after its receipt of notice from the Administrative Agent of the aggregate amount of such prepayment. Amounts remaining after the allocation of accepted amounts with respect to the First Offer and the Second Offer to Accepting Lenders shall be retained by the Borrower.

General Provisions Regarding Payments.

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

(b) All payments in respect of the principal amount of any Loan shall be accompanied by payment of accrued interest on the principal amount being repaid or prepaid.

(c) Administrative Agent shall promptly distribute to each Lender at such address as such Lender shall indicate in writing, such Lender's applicable Pro Rata Share of all payments and prepayments of principal and interest due hereunder, together with all other amounts due thereto, including, without limitation, all fees payable with respect thereto, to the extent received by Administrative Agent.

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

(e) Subject to the provisos set forth in the definition of "Interest Period," whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, such payment shall be made on the next succeeding Business Day and such extension of time shall be included in the computation of the payment of interest hereunder.

(f) Administrative Agent, at its sole discretion, shall deem any payment by or on behalf of Borrower hereunder that is not made in same day funds prior to 12:00 p.m. (New York City time) to be a non-conforming payment. Any such payment shall not be deemed to have been received by Administrative Agent until the later of (i) the time such funds become available funds, and (ii) the applicable next Business Day. Administrative Agent shall give prompt telephonic notice to Borrower and each applicable Lender (confirmed in writing) if any payment is non-conforming. Any non-conforming payment may constitute or become a Default or Event of Default in accordance with the terms of Section 8.1(a). Interest shall continue to accrue on any principal as to which a non-conforming payment is made until such funds become available funds (but in no event less than the period from the date of such payment to the next succeeding applicable Business Day) at the rate determined pursuant to Section 2.9 from the date such amount was due and payable until the date such amount is paid in full.

(g) If an Event of Default shall have occurred and not otherwise been waived, and the maturity of the Obligations shall have been accelerated

pursuant to Section 8.1, all payments or proceeds received by Agents hereunder in respect of any of the Obligations, shall be applied in accordance with the application arrangements described in Section 7.2 of the Pledge and Security Agreement.

(h) It is confirmed and acknowledged that no Permitted Loan Purchase (and the purchase price paid to any Lender in consideration of the purchase of such Lender's Loans in connection therewith) and no cancellation or retirement of Loans acquired in any Permitted

Loan Purchase shall constitute a payment or reduction of Loans or Obligations for purposes of this Section 2.15 or any other provision of this Agreement.

Ratable Sharing. Lenders hereby agree among themselves that, except as otherwise provided in the Collateral Documents with respect to amounts realized from the exercise of rights with respect to Liens on the Collateral, if any of them shall, whether by voluntary payment (other than a voluntary prepayment of Loans made and applied in accordance with the terms hereof), through the exercise of any right of set-off or banker's lien, by counterclaim or cross action or by the enforcement of any right under the Credit Documents or otherwise, or as adequate protection of a deposit treated as cash collateral under the Bankruptcy Code, receive payment or reduction of a proportion of the aggregate amount of principal, interest, fees and other amounts then due and owing to such Lender hereunder or under the other Credit Documents (collectively, the "**Aggregate Amounts Due**" to such Lender) which is greater than the proportion received by any other Lender in respect of the Aggregate Amounts Due to such other Lender, then the Lender receiving such proportionately greater payment shall (a) notify Administrative Agent and each other Lender of the receipt of such payment and (b) apply a portion of such payment to purchase participations (which it shall be deemed to have purchased from each seller of a participation simultaneously upon the receipt by such seller of its portion of such payment) in the Aggregate Amounts Due to the other Lenders so that all such recoveries of Aggregate Amounts Due shall be shared by all Lenders in proportion to the Aggregate Amounts Due to them; provided, if all or part of such proportionately greater payment received by such purchasing Lender is thereafter recovered from such Lender upon the bankruptcy or reorganization of Borrower or otherwise, those purchases shall be rescinded and the purchase prices paid for such participations shall be returned to such purchasing Lender ratably to the extent of such recovery, but without interest. Borrower expressly consents to the foregoing arrangement and agrees that any holder of a participation so purchased may, so long as an Event of Default has occurred and is continuing, exercise any and all rights of banker's lien, set-off or counterclaim with respect to any and all monies owing by Borrower to that holder with respect thereto as fully as if that holder were owed the amount of the participation held by that holder.

Making or Maintaining Eurodollar Rate Loans.

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

Loans in respect of which such determination was made shall be deemed to be rescinded by Borrower.

(b) Illegality or Impracticability of Eurodollar Rate Loans. In the event that on any date any Lender shall have determined (which determination shall be final and conclusive and binding upon all parties hereto but shall be made only after consultation with Borrower and Administrative Agent) that the making, maintaining or continuation of its Eurodollar Rate Loans (i) has become unlawful as a result of compliance by such Lender in good faith with any law, treaty, governmental rule, regulation, guideline or order (or would conflict with any such treaty, governmental rule, regulation, guideline or order not having the force of law even though the failure to comply therewith would not be unlawful), or (ii) has become impracticable, as a result of contingencies occurring after the date hereof which materially and adversely affect the London interbank market or the position of such Lender in that market, then, and in any such event, such Lender shall be an "**Affected Lender**" and it shall on that day give notice (by telefacsimile or by telephone confirmed in writing) to Borrower and Administrative Agent of such determination (which notice Administrative Agent shall promptly transmit to each other Lender). Thereafter (1) the obligation of the Affected Lender to make Loans as, or to convert Loans to, Eurodollar Rate Loans shall be suspended until such notice shall be withdrawn by the Affected Lender, (2) to the extent such determination by the Affected Lender relates to a Eurodollar Rate Loan then being requested by Borrower pursuant to a Funding Notice or a Conversion/Continuation Notice, the Affected Lender shall make such Loan as (or continue such Loan as or convert such Loan to, as the case may be) a Base Rate Loan, (3) the Affected Lender's obligation to maintain its outstanding Eurodollar Rate Loans (the "**Affected Loans**") shall be terminated at the earlier to occur of the expiration of the Interest Period then in effect with respect to the Affected Loans or when required by law, and (4) the Affected Loans shall automatically convert into Base Rate Loans on the date of such termination. Notwithstanding the foregoing, to the extent a determination by an Affected Lender as described above relates to a Eurodollar Rate Loan then being requested by Borrower pursuant to a Funding Notice or a Conversion/Continuation Notice, Borrower shall have the option, subject to the provisions of Section 2.17(c), to rescind such Funding Notice or Conversion/Continuation Notice as to all Lenders by giving notice (by telefacsimile or by telephone confirmed in writing) to Administrative Agent of such rescission on the date on which the Affected Lender gives notice of its determination as described above (which notice of rescission Administrative Agent shall promptly transmit to each other Lender). Except as provided in the immediately preceding sentence, nothing in this Section 2.17(b) shall affect the obligation of any Lender other than an Affected Lender to make or maintain Loans as, or to convert Loans to, Eurodollar Rate Loans in accordance with the terms hereof.

(c) Compensation for Breakage or Non-Commencement of Interest Periods. Borrower shall compensate each Lender, upon written request by such Lender (which request shall set forth the basis for requesting such amounts), for all reasonable losses, expenses and liabilities (including any interest paid by such Lender to Lenders of funds borrowed by it to make or carry its Eurodollar Rate Loans and any loss, expense or liability sustained by such Lender in connection with the liquidation or re-employment of such funds but excluding loss

of anticipated profits) which such Lender may sustain: (i) if for any reason (other than a default by such Lender) a borrowing of any Eurodollar Rate Loan does not occur on a date specified therefor in a Funding Notice or a telephonic request for borrowing, or a conversion to or continuation of any Eurodollar Rate Loan does not occur on a date specified therefor in a Conversion/Continuation Notice or a telephonic request for conversion or continuation; (ii) if any prepayment or other principal payment of, or any conversion of, any of its Eurodollar Rate Loans occurs on a date prior to the last day of an Interest Period applicable to that Loan; or (iii) if any prepayment of any of its Eurodollar Rate Loans is not made on any date specified in a notice of prepayment given by Borrower.

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

(e) Assumptions Concerning Funding of Eurodollar Rate Loans. Calculation of all amounts payable to a Lender under this Section 2.17 and under

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

Increased Costs; Capital Adequacy.

(a) Compensation For Increased Costs and Taxes. Subject to the provisions of Section 2.20 (which shall be controlling with respect to the matters covered thereby), in the event that any Lender shall determine (which determination shall, absent manifest error, be final and conclusive and binding upon all parties hereto) that any law, treaty or governmental rule, regulation or order, or any change therein or in the interpretation, administration or application thereof (including the introduction of any new law, treaty or governmental rule, regulation or order), or any determination of a court or Governmental Authority, in each case that becomes effective after the Closing Date, or compliance by such Lender with any guideline, request or directive issued or made after the Closing Date by any central bank, other Governmental Authority or quasi-governmental authority (whether or not having the force of law) (any such event, a "**Change in Law**"): (i) subjects such Lender (or its applicable lending office) to any additional Tax with respect to this Agreement or any of the other Credit Documents or any of its obligations hereunder or thereunder or any payments to such Lender (or its applicable lending office) of principal, interest, fees or any other amount payable hereunder; (ii) imposes, modifies or holds applicable any reserve (including any marginal, emergency, supplemental, special or other reserve), special deposit, compulsory loan, FDIC

insurance or similar requirement against assets held by, or deposits or other liabilities in or for the account of, or advances or loans by, or other credit extended by, or any other acquisition of funds by, any office of such Lender (other than any such reserve or other requirements with respect to Eurodollar Rate Loans that are reflected in the definition of Adjusted Eurodollar Rate); or (iii) imposes any other condition (other than with respect to a Tax matter) on or affecting such Lender (or its applicable lending office) or its obligations hereunder or the London interbank market; and the result of any of the foregoing is to increase the cost to such Lender of agreeing to make, making or maintaining Loans hereunder or to reduce any amount received or receivable by such Lender (or its applicable lending office) with respect thereto; then, in any such case, Borrower shall promptly pay to such Lender, upon receipt of the statement referred to in the next sentence, such additional amount or amounts (in the form of an increased rate of, or a different method of calculating, interest or otherwise as such Lender in its sole discretion shall determine) as may be necessary to compensate such Lender for any such increased cost or reduction in amounts received or receivable hereunder. Such Lender shall deliver to Borrower (with a copy to Administrative Agent) a written statement, setting forth in reasonable detail the basis for calculating the additional amounts owed to such Lender under this Section 2.18(a), which statement shall be conclusive and binding upon all parties hereto absent manifest error.

(b) Capital Adequacy Adjustment. In the event that any Lender shall have determined that any Change in Law regarding capital adequacy has or would have the effect of reducing the rate of return on the capital of such Lender or any corporation controlling such Lender as a consequence of, or with reference to, such Lender's Loans or participations therein or other obligations hereunder with respect to the Loans to a level below that which such Lender or such controlling corporation could have achieved but for such adoption, effectiveness, phase-in, applicability, change or compliance (taking into consideration the policies of such Lender or such controlling corporation with regard to capital adequacy), then from time to time, within five (5) Business Days after receipt by Borrower from such Lender of the statement referred to in the next sentence, Borrower shall pay to such Lender such additional amount or amounts as will compensate such Lender or such controlling corporation on an after-tax basis for such reduction. Such Lender shall deliver to Borrower (with a copy to Administrative Agent) a written statement, setting forth in reasonable detail the basis for calculating the additional amounts owed to Lender under this Section 2.18(b), which statement shall be conclusive and binding upon all parties hereto absent manifest error.

Taxes; Withholding, etc.

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

organization of which the United States of America or any such jurisdiction is a member at the time of payment.

(b) Withholding of Taxes. If any Credit Party or any other Person is required by law to make any deduction or withholding on account of any Tax from any sum paid or payable by any Credit Party to Administrative Agent or any Lender under any of the Credit Documents: (i) Borrower shall notify Administrative Agent of any such requirement or any change in any such requirement as soon as Borrower becomes aware of it; (ii) Borrower shall pay any such Tax before the date on which penalties attach thereto, such payment to be made (if the liability to pay is imposed on any Credit Party) for its own account or (if that liability is imposed on Administrative Agent or such Lender, as the case may be) on behalf of and in the name of Administrative Agent or such Lender; (iii) the sum payable by such Credit Party in respect of which the relevant deduction, withholding or payment is required shall be increased to the extent necessary to ensure that, after the making of that deduction, withholding or payment, Administrative Agent or such Lender, as the case may be, receives on the due date a net sum equal to what it would have received had no such deduction, withholding or payment been required or made; and (iv) within thirty (30) days after paying any sum from which it is required by law to make any deduction or withholding, and within thirty (30) days after the due date of payment of any Tax which it is required by clause (ii) above to pay, Borrower shall deliver to Administrative Agent evidence satisfactory to the other affected parties of such deduction, withholding or payment and of the remittance thereof to the relevant taxing or other authority; provided, no such additional amount shall be required to be paid to any Lender under clause (iii) above except to the extent that any change after the date hereof (in the case of each Lender listed on the signature pages hereof on the Closing Date) or after the effective date of the Assignment Agreement or Term Loan Joinder Agreement pursuant to which such Lender became a Lender (in the case of each other Lender) in any such requirement for a deduction, withholding or payment as is mentioned therein shall result in an increase in the rate of such deduction, withholding or payment from that in effect at the date hereof or at the date of such Term Loan Joinder Agreement or Assignment Agreement, as the case may be, in respect of payments to such Lender.

(c) Evidence of Exemption From U.S. Withholding Tax. Each Lender that is not a United States Person (as such term is defined in Section 7701(a)(30) of the Internal Revenue Code) for U.S. federal income tax purposes (a "**Non-US Lender**") shall deliver to Administrative Agent for transmission to Borrower, on or prior to the Closing Date (in the case of each Lender listed on the signature pages hereof on the Closing Date) or on or prior to the date of the Assignment Agreement or Term Loan Joinder Agreement pursuant to which it becomes a Lender (in the case of each other Lender), and at such other times as may be necessary in the determination of Borrower or Administrative Agent (each in the reasonable exercise of its discretion), (i) two original copies of Internal Revenue Service Form W-8BEN or W-8ECI (or any successor forms), properly completed and duly executed by such Lender, and such other documentation required under the Internal Revenue Code and reasonably requested by Borrower to establish that such Lender is not subject to deduction or withholding of United States federal income tax with respect to any payments to such Lender of principal, interest, fees or other amounts payable under any of the Credit Documents, or (ii) if such

Lender is not a "bank" or other Person described in Section 881(c)(3) of the Internal Revenue Code and cannot deliver either Internal Revenue Service Form W-8ECI pursuant to clause (i) above, a Certificate re Non-Bank Status together with two original copies of Internal Revenue Service Form W-8BEN (or any successor form), properly completed and duly executed by such Lender, and such other documentation required under the Internal Revenue Code and reasonably requested by Borrower to establish that such Lender is not subject to deduction or withholding of United States federal income tax with respect to any payments to such Lender of interest payable under any of the Credit Documents. Each Lender required to deliver any forms, certificates or other evidence with respect to United States federal income tax withholding matters pursuant to this Section 2.19(c) hereby agrees, from time to time after the initial delivery by such Lender of such forms, certificates or other evidence, whenever a lapse in time or change in circumstances renders such forms, certificates or other evidence obsolete or inaccurate in any material respect, that such Lender shall promptly deliver to Administrative Agent for transmission to Borrower two new original copies of Internal Revenue Service Form W-8BEN or W-8ECI, or a Certificate re Non-Bank Status and two original copies of Internal Revenue Service Form W-8BEN (or any successor form), as the case may be, properly completed and duly executed by such Lender, and such other documentation required under the Internal Revenue Code and reasonably requested by Borrower to confirm or establish that such Lender is not subject to deduction or withholding of United States federal income tax with respect to payments to such Lender under the Credit Documents, or notify Administrative Agent and Borrower of its inability to deliver any such forms, certificates or other evidence. Borrower shall not be required to pay any additional amount to any Non-US Lender under Section 2.19(b)(iii) if such Lender shall have failed (1) to deliver the forms, certificates or other evidence referred to in the second sentence of this Section 2.19(c), or (2) to notify Administrative Agent and Borrower of its inability to deliver any such forms, certificates or other evidence, as the case may be; provided, if such Lender shall have satisfied the requirements of the first sentence of this Section 2.19(c) on the Closing Date, or on the date of the Assignment Agreement or Term Loan Joinder Agreement pursuant to which it became a Lender, as applicable, nothing in this last sentence of Section 2.19(c) shall relieve Borrower of its obligation to pay any additional amounts pursuant this Section 2.19 in the event that, as a result of any change in any applicable law, treaty or governmental rule, regulation or order, or any change in the interpretation, administration or application thereof, such Lender is no longer properly entitled to deliver forms, certificates or other evidence at a subsequent date establishing the fact that such Lender is not subject to withholding as described herein.

Obligation to Mitigate. Each Lender agrees that, as promptly as practicable after the officer of such Lender responsible for administering its Loans, as the case may be, becomes aware of the occurrence of an event or the existence of a condition that would cause such Lender to become an Affected Lender or that would entitle such Lender to receive payments under Section 2.17, 2.18 or 2.19, it will, to the extent not inconsistent with the internal policies of such Lender and any applicable legal or regulatory restrictions, use reasonable efforts to (a) make, issue, fund or maintain its Credit Extensions, including any Affected Loans, through another office of such Lender, or (b) take such other measures as such Lender may deem reasonable, if as a result thereof the circumstances which would cause such Lender to be an Affected Lender would cease to exist or the additional amounts which would otherwise be required to be paid to such Lender pursuant to Section 2.17, 2.18 or 2.19 would be materially reduced and if, as

determined by such Lender in its sole discretion, the making, issuing, funding or maintaining of such Loans through such other office or in accordance with such other measures, as the case may be, would not otherwise adversely affect such Loans or the interests of such Lender; provided, such Lender will not be obligated to utilize such other office pursuant to this Section 2.20 unless Borrower agrees to pay all incremental expenses incurred by such Lender as a result of utilizing such other office as described in clause (i) above. A certificate as to the amount of any such expenses payable by Borrower pursuant to this Section 2.20 (setting forth in reasonable detail the basis for requesting such amount) submitted by such Lender to Borrower (with a copy to Administrative Agent) shall be conclusive absent manifest error.

Call Protection. In the event that, after the Second Amendment Effective Date, but on or prior to the first anniversary of the Second Amendment Effective Date, any Lender receives (x) a prepayment of principal of the Loans pursuant to Section 2.12 or 2.13(c) or (y) a repayment of principal amount of the Loans as a result of the mandatory assignment of such Loans in the circumstances described in Section 2.22 following the failure of such Lender to consent to an amendment of this Agreement that would have the effect of reducing any of the Applicable Margin with respect to such Loans, then in each case, at the time thereof, the Borrower shall pay to such Lender a prepayment premium equal to 1.00 % of the principal amount of such prepayment or repayment.

Removal or Replacement of a Lender. Anything contained herein to the contrary notwithstanding, in the event that: (a)(i) any Lender (an "**Increased-Cost Lender**") shall give notice to Representative that such Lender is an Affected Lender or that such Lender is entitled to receive payments under Section 2.17, 2.18 or 2.19, (ii) the circumstances which have caused such Lender to be an Affected Lender or which entitle such Lender to receive such payments shall remain in effect, and (iii) such Lender shall fail to withdraw such notice within five (5) Business Days after Borrower's request for such withdrawal; or (b) in connection with any proposed amendment, modification, termination, waiver or consent with respect to any of the provisions hereof as contemplated by Section 10.5(b), the consent of Requisite Lenders shall have been obtained but the consent of one or more of such other Lenders (each a "**Non-Consenting Lender**") whose consent is required shall not have been obtained; then, with respect to each such Increased-Cost Lender or Non-Consenting Lender (the "**Terminated Lender**"), Borrower may, by giving written notice to Administrative Agent and any Terminated Lender of its election to do so, or Administrative Agent may, elect to cause such Terminated Lender (and such Terminated Lender hereby irrevocably agrees) to assign its outstanding Loans, if any, in full to one or more Eligible Assignees satisfactory to Administrative Agent (each a "**Replacement Lender**") in accordance with the provisions of Section 10.6 and Terminated Lender shall pay any fees payable thereunder in connection with such assignment; provided, (1) on the date of such assignment, the Replacement Lender shall pay to Terminated Lender an amount equal to the sum of (A) an amount equal to the principal of, and all accrued interest on, all outstanding Loans of the Terminated Lender, (B) an amount equal to all unreimbursed drawings that have been funded by such Terminated Lender, together with all then unpaid interest with respect thereto at such time and (C) an amount equal to all accrued, but theretofore unpaid fees owing to such Terminated Lender pursuant to Section 2.10; (2) on the date of such assignment, Borrower shall pay any amounts payable to such Terminated Lender pursuant to

Section 2.17(c), 2.18 or 2.19, or otherwise as if it were a prepayment; and (3) in the event such Terminated Lender is a Non-Consenting Lender, each Replacement Lender shall consent, at the time of such assignment, to each matter in respect of which such Terminated Lender was a Non-Consenting Lender. Upon the prepayment of all amounts owing to any Terminated Lender, if any, such Terminated Lender shall no longer constitute a "Lender" for purposes hereof; provided, any rights of such Terminated Lender to indemnification hereunder shall survive as to such Terminated Lender.

SECTION 3. CONDITIONS PRECEDENT

Closing Date. The obligation of any Lender to make a Credit Extension on the Closing Date is subject to the satisfaction, or waiver in accordance with Section 10.5, of the following conditions on or before the Closing Date:

(a) Credit Documents. Administrative Agent shall have received (i) sufficient copies of this Agreement, executed and delivered by each applicable Credit Party, the Agents and Lenders having Term Loan Commitments hereunder and, (ii) Notes, if any, requested by any Lender pursuant to Section 2.6(c) in connection with its Term Loan Commitments, executed and delivered by Borrower.

(b) Organizational Documents; Incumbency. Administrative Agent shall have received (i) copies of each Organizational Document for each Credit Party, certified as of a recent date prior to the Closing Date by the appropriate governmental official or, as applicable, by an officer of such Credit Party; (ii) signature and incumbency certificates of the officers of each Credit Party executing the Credit Documents to which it is a party; (iii) resolutions of the Board of Directors or similar governing body of each Credit Party approving and authorizing the execution, delivery and performance of this Agreement and the other Credit Documents to which it is a party, certified as of the Closing Date by its secretary or an assistant secretary as being in full force and effect without modification or amendment; (iv) a good standing

certificate from the applicable Governmental Authority of each Credit Party's jurisdiction of incorporation, organization or formation and in each jurisdiction in which it is qualified as a foreign corporation or other entity to do business, each dated a recent date prior to the Closing Date; and (v) such other documents as Administrative Agent may reasonably request.

(c) Governmental Authorizations and Consents.

(i) Each Credit Party shall have obtained all Governmental Authorizations and all consents of other Persons, in each case that are necessary or

advisable in connection with the transactions contemplated under this Agreement and each of the foregoing shall be in full force and effect and in form and substance reasonably satisfactory to Administrative Agent.

(ii) Each of the Lenders shall have received, at least five (5) Business Days in advance of the Closing Date, all documentation and other information required by Governmental Authorities under applicable "know-your-customer" and anti-money laundering rules and regulations, including, without limitation, as required by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001.

(d) Term Priority Collateral. The Administrative Agent shall be satisfied with the valid perfected First Priority security interest in favor of Collateral Agent, for the benefit of Secured Parties, in the Term Priority Collateral.

(e) ABL Priority Collateral. The Administrative Agent shall be satisfied with the valid perfected Second Priority security interest in favor of Collateral Agent, for the benefit of Secured Parties, in the ABL Priority Collateral of each Credit Party.

(f) Opinion of Counsel to Credit Parties. Lenders and their respective counsel shall have received originally executed copies of the favorable written opinion of Gibson, Dunn & Crutcher LLP, counsel for Credit Parties, in form and substance satisfactory to the Administrative Agent, dated as of the Closing Date (and each Credit Party hereby instructs such counsel to deliver such opinion to Agents and Lenders).

(g) Fees. Borrower shall have paid to Arranger and Agents the fees and other amounts payable on the Closing Date referred to in Section 2.10.

(h) Solvency Certificate. On the Closing Date, Administrative Agent shall have received a Solvency Certificate dated as of the Closing Date and addressed to Administrative Agent and Lenders, in form, scope and substance satisfactory to Administrative Agent, with appropriate attachments and demonstrating that after giving effect to the transactions contemplated by the Credit Documents and the Revolving Credit Documents, Borrower is and will be, and Holdings and its Subsidiaries (on a consolidated basis) are and will be Solvent.

(i) No Litigation. There shall not exist any action, suit, investigation, litigation or proceeding or other legal or regulatory developments, pending or threatened in any

court or before any arbitrator or Governmental Authority that, in the opinion of Administrative Agent, singly or in the aggregate, could reasonably be expected to restrain, prevent or impose materially burdensome conditions on the transactions contemplated by this Agreement or the other Credit Documents.

(j) No Material Adverse Effect. Since December 31, 2006, there shall not have occurred a material adverse effect upon the business, operations, properties, assets or condition (financial or otherwise) of Company and its Subsidiaries, taken as a whole.

(k) Existing Credit Agreement Prepayments. The Administrative Agent shall be satisfied that, concurrently with the borrowing of the Term Loans on the Closing Date, the Existing Credit Agreement will be terminated, all Liens securing obligations under the Existing Agreement will be released, and all obligations under the Existing Credit Agreement repaid in full.

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

(m) Revolving Credit Facility. Borrower shall have entered into the Revolving Credit Facility and the Revolving Credit Documents shall be satisfactory to the Administrative Agent.

(n) Blocked Account Agreement. Enter into a Blocked Account Agreement with respect to each Deposit Account of any Credit Party.

(o) Closing Date Certificate. The Administrative Agent shall have received a certificate signed by the chief financial officer of the Borrower dated the Closing Date, certifying (A) that the conditions specified in Section 3.1(a) have been satisfied, (B) that the representations and warranties contained in Section 4 are true and correct and (C) that no event shall have occurred and be continuing or would result from the consummation of the Credit Extensions on the Closing Date that would constitute an Event of Default or a Default.

(p) Funding Notice. Administrative Agent shall have received a fully executed and delivered Funding Notice.

(q) Representations and Warranties. As of the Closing Date, the representations and warranties contained herein and in the other Credit Documents shall be true and correct in all material respects on and as of the Closing Date to the same extent as though made on and as of that date, except to the extent such representations and warranties specifically relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects on and as of such earlier date.

(r) Event of Default or a Default. As of the Closing Date, no event shall have occurred and be continuing or would result from the consummation of the Credit Extensions that would constitute an Event of Default or a Default.

Each Lender, by delivering its signature page to this Agreement on the Closing Date, shall be deemed to have acknowledged receipt of, and consented to and approved, each Credit Document and each other document required to be approved on the Closing Date.

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

SECTION 4. REPRESENTATIONS AND WARRANTIES

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

Organization; Requisite Power and Authority; Qualification. Each of Holdings and its Subsidiaries (a) is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization as identified in Schedule 4.1 (subject to such changes as are permitted by Section 6.9), (b) has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as proposed to be conducted, to enter into the Credit Documents to which it is a party and to carry out the transactions contemplated thereby, and (c) is qualified to do business and in good standing in every jurisdiction where its assets are located and wherever necessary to carry out its business and operations, except in jurisdictions where the failure to be so qualified or in good standing has not had, and could not be reasonably expected to have, a Material Adverse Effect.

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

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

4.4 No Conflict. The execution, delivery and performance by Credit Parties of the Credit Documents to which they are parties and the consummation of the transactions contemplated by the Credit Documents do not and will not (a) violate any provision of any law or any governmental rule or regulation applicable to Holdings or any of its Subsidiaries, any of the Organizational Documents of Holdings or any of its Subsidiaries; (b) violate any order, judgment or decree of any court or other agency of government binding on Holdings or any of its Subsidiaries except to the extent such violation could not be reasonably expected to have a Material Adverse Effect; (c) conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default under any Contractual Obligation of Holdings or any of its Subsidiaries except to the extent such violation could not reasonably be expected to have a Material Adverse Effect; (d) result in or require the creation or imposition of any Lien upon any of the properties or assets of Holdings or any of its Subsidiaries (other than any Liens created under any of the Credit Documents in favor of Collateral Agent, on behalf of Secured Parties); or (e) require any approval of stockholders, members or partners or any approval or consent of any Person under any Contractual Obligation of Holdings or any of its Subsidiaries, except for such approvals or consents which will be obtained on or before the Closing Date and disclosed in writing to Lenders.

4.5 Governmental Consents. The execution, delivery and performance by Credit Parties of the Credit Documents to which they are parties and the consummation of the transactions contemplated by the Credit Documents do not and will not require any registration with, consent or approval of, or notice to, or other action to, with or by, any Governmental Authority except to the extent obtained on or before the Closing Date, and except for filings and recordings with respect to the Collateral made or to be made, or otherwise delivered to Collateral Agent for filing and/or recordation, as of the Closing Date.

4.6 Binding Obligation. Each Credit Document has been duly executed and delivered by each Credit Party that is a party thereto and is the legally valid and binding

obligation of such Credit Party, enforceable against such Credit Party in accordance with its respective terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability.

4.7 Financial Condition. Holdings has heretofore delivered to Administrative Agent (a) the audited consolidated balance sheet of Company and its Subsidiaries for the Fiscal Years ended December 31, 2004, December 31, 2005 and December 31, 2006, and the related audited consolidated statements of income, stockholders' equity and cash flows of each of such companies for each such Fiscal Year then ended, together with all related notes and schedules thereto, and (b) the unaudited consolidated balance sheet of Company and its Subsidiaries for the three-month period ended March 30, 2007 and the related unaudited consolidated statements of income, stockholders' equity and cash flows of the Company and its Subsidiaries for such three-month period then ended, together with all related notes and schedules thereto. All such statements of Company and its Subsidiaries were prepared in conformity with GAAP and fairly present, in all material respects, the financial position of the entities described in such financial statements as at the respective dates thereof and the results of operations and cash flows of the entities described therein for each of the periods then ended, subject, in the case of such unaudited financial statements, to changes resulting from audit and normal year-end adjustments and the absence of footnotes. As of the Closing Date, neither Company nor any of its Subsidiaries has any contingent liability or liability for taxes, long-term lease or unusual forward or long-term commitment that is not reflected in the foregoing financial statements or the notes thereto and which in any such case is material in relation to the business, operations, properties, assets, condition (financial or otherwise) or prospects of Company and its Subsidiaries taken as a whole.

4.8 Projections. On and as of the Closing Date, the projections of Holdings and its Subsidiaries for (x) the period Fiscal Year 2007 through and including Fiscal Year 2013 and (y) the Fiscal Quarters beginning with the second Fiscal Quarter of 2007 through and including the fourth Fiscal Quarter of 2008 (collectively, the "**Projections**") previously delivered to Administrative Agent and the Lenders are based on good faith estimates and assumptions made by the management of Holdings, it being recognized, however, that projections as to future events are not to be viewed as facts and that actual results during the period or periods covered by the Projections may differ from the projected results and that the differences may be material.

4.9 No Material Adverse Change. Since December 31, 2006, except as set forth in Schedule 4.9, no event, circumstance or change has occurred that has caused or evidences, or could reasonably be expected to cause, either in any case or in the aggregate, a Material Adverse Effect.

4.10 No Restricted Payments. Neither Holdings nor any of its Subsidiaries has directly or indirectly declared, ordered, paid or made, or set apart any sum or property for, any Restricted Payment or agreed to do so except as permitted pursuant to Section 6.5.

4.11 Litigation; Adverse Facts. Except as set forth in Schedule 4.11 hereto, there are no Adverse Proceedings, individually or in the aggregate, that could reasonably be expected to have a Material Adverse Effect. Neither Holdings nor any of its Subsidiaries (a) is in violation of any applicable laws (including Environmental Laws) that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect, or (b) is subject to or in default with respect to any final judgments, writs, injunctions, decrees, rules or regulations of any court or any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

4.12 Payment of Taxes. Except as otherwise permitted under Section 5.3, all tax returns and reports of Holdings and its Subsidiaries required to be filed by any of them have been timely filed, and all taxes shown on such tax returns to be due and payable and all assessments, fees and other governmental charges upon Holdings and its Subsidiaries and upon their respective properties, assets, income, businesses and franchises which are due and payable have been paid when due and payable. Neither Holdings nor any of its Subsidiaries knows of any proposed tax assessment against Holdings or any of its Subsidiaries other than those which are being actively contested by Holdings or such Subsidiary in good faith and by appropriate proceedings and for which reserves or other appropriate provisions, if any, as shall be required in conformity with GAAP shall have been made or provided therefor.

4.13 Properties.

(a) Title. Each of Holdings and its Subsidiaries has (i) good, sufficient and legal title to (in the case of fee interests in real property), (ii) valid leasehold interests in (in the case of leasehold interests in real or personal property), and (iii) good title to (in the case of all other personal property), all of their respective properties and assets reflected in the most recent financial statements delivered to the Administrative Agent, in each case except for assets disposed of (x) since the date of such financial statements and prior to the Closing Date in the ordinary course of business or (y) as otherwise permitted under Section 6.9 and except for such defects that neither individually nor in the aggregate could reasonably be expected to have a Material Adverse Effect. Except as permitted by this Agreement, all such properties and assets are free and clear of Liens.

(b) Real Estate. As of the Closing Date, Schedule 4.13 contains a true, accurate and complete list of (i) all Real Estate Assets, and (ii) all leases, subleases or assignments of leases (together with all amendments, modifications, supplements, renewals or extensions of any thereof), if any, affecting each Real Estate Asset of any Credit Party, regardless of whether such Credit Party is the landlord or tenant (whether directly or as an assignee or successor in interest) under such lease, sublease or assignment. Each agreement listed in clause (ii) of the immediately preceding sentence is in full force and effect and Holdings does not have knowledge of any default that has occurred and is continuing thereunder, and each such agreement constitutes the legally valid and binding obligation of each applicable Credit Party, enforceable against such Credit Party in accordance with its

terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by equitable principles.

(c) Intellectual Property. Company and its Subsidiaries own or have the valid right to use all material Intellectual Property, and all Intellectual Property is free and clear of any and all Liens other than Liens securing the Obligations and Liens permitted pursuant to Section 6.2(i). Any registrations in respect of the Intellectual Property are in full force and effect and are valid and enforceable. The conduct of the business of Company and its Subsidiaries as currently conducted, and as currently contemplated to be conducted, including, but not limited to, all products, processes or services, made, offered or sold by Company and its Subsidiaries, does not and will not infringe upon, violate, misappropriate or dilute any intellectual property of any third party which infringement, violation, misappropriation or dilution could reasonably be expected to have a Material Adverse Effect. To the knowledge of Holdings, Company or any of its Subsidiaries, no third party is infringing upon or misappropriating, violating or otherwise diluting any Intellectual Property where such infringement, misappropriation, violation or dilution could reasonably be expected to have a Material Adverse Effect. Neither Holdings, Company nor any of its Subsidiaries is enjoined from using any material Intellectual Property, and except as could reasonably be expected to have a Material Adverse Effect, there is no pending or, to the knowledge of Holdings, Company or any of its Subsidiaries, threatened claim or litigation contesting (i) any right of Company or any of its Subsidiaries to own or use any Intellectual Property, or (ii) the validity or enforceability of any Intellectual Property.

4.14 Environmental Matters. Except as set forth in Schedule 4.14 hereto: (i) neither Holdings nor any of its Subsidiaries nor any of their respective Facilities or operations are subject to any outstanding written order, consent decree or settlement agreement with any Person relating to any Environmental Law, any Environmental Claim, or any Hazardous Materials Activity which individually or in the aggregate would reasonably be expected to have a Material Adverse Effect; (ii) as of the Closing Date, or except as otherwise reported to the Administrative Agent after the Closing Date, neither Holdings nor any of its Subsidiaries has received within the last ten (10) years any letter or request for information under Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9604), or any comparable state law; (iii) there are and, to each of Holdings' and its Subsidiaries' knowledge, have been, no conditions, occurrences, or Hazardous Materials Activities which would reasonably be expected to form the basis of an Environmental Claim against Holdings or any of its Subsidiaries, which individually or in the aggregate would reasonably be expected to have a Material Adverse Effect; and (iv) neither Holdings nor any of its Subsidiaries nor, to any Credit Party's knowledge, any predecessor of Holdings or any of its Subsidiaries has filed any notice under any Environmental Law indicating past or present treatment of Hazardous Materials at any Facility, and none of Holdings' or any of its Subsidiaries' operations involves the generation, transportation, treatment, storage or disposal of hazardous waste, as defined under 40 C.F.R. Parts 260-270 or any state equivalent, which individually or in the aggregate would reasonably be expected to have a Material Adverse Effect. Notwithstanding anything to the contrary in this Section 4.14, compliance with all current or reasonably foreseeable future requirements pursuant

to or under Environmental Laws would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect and no event or condition has occurred or is occurring with respect to Holdings or any of its Subsidiaries relating to any Environmental Law, any Release of Hazardous Materials, or any Hazardous Materials Activity, including, without limitation, any matter included in Schedule 4.14, which individually or in the aggregate has had, or would reasonably be expected to have, a Material Adverse Effect.

4.15 No Defaults. Neither Holdings nor any of its Subsidiaries is in default in the performance, observance or fulfillment of any of the obligations or covenants contained in (i) any of its Contractual Obligations (other than the Credit Documents and the Revolving Credit Documents), and no condition exists which, with the giving of notice or the lapse of time or both, could constitute such a default, except where the consequences, direct or indirect, of such default or defaults, if any, could not reasonably be expected to have a Material Adverse Effect and (ii) any Credit Document and any Revolving Credit Document.

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

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

4.18 Employee Matters. Neither Holdings nor any of its Subsidiaries is engaged in any unfair labor practice that could reasonably be expected to have a Material Adverse Effect. Except as set forth in Schedule 4.18, there is (a) no unfair labor practice complaint pending against Holdings or any of its Subsidiaries, or to the best knowledge of Holdings and Company, threatened against any of them before the National Labor Relations Board and no grievance or arbitration proceeding arising out of or under any collective bargaining agreement that is so pending against Holdings or any of its Subsidiaries or to the best knowledge of Holdings and Company, threatened against any of them, and the hours worked by and payments made to employees of Holdings or any of its Subsidiaries have not violated the Fair Labor Standards Act or any other law dealing with such matters, (b) no strike or work stoppage in existence or threatened involving Holdings or any of its Subsidiaries, and (c) to the best knowledge of

Holdings and Company, no union representation question existing with respect to the employees of Holdings or any of its Subsidiaries and, to the best knowledge of Holdings and Company, no union organization activity that is taking place; which in each case in clause (a), (b) or (c) above (including, without limitation, any matter included in Schedule 4.18), could either individually or in the aggregate reasonably be expected to have a Material Adverse Effect.

4.19 Employee Benefit Plans. Holdings, each of its Subsidiaries and each of their respective ERISA Affiliates are in material compliance with all applicable provisions and requirements of ERISA and the Internal Revenue Code and the regulations and published interpretations thereunder with respect to each Employee Benefit Plan, and have performed all their obligations under each Employee Benefit Plan in all material respects. Each Employee Benefit Plan which is intended to qualify under Section 401(a) of the Internal Revenue Code has received a favorable determination letter from the Internal Revenue Service indicating that such Employee Benefit Plan is so qualified and nothing has occurred subsequent to the issuance of such determination letter which reasonably would be expected to cause such Employee Benefit Plan to lose its qualified status. No liability to the PBGC (other than required premium payments), the Internal Revenue Service, any Employee Benefit Plan or any trust established under Title IV of ERISA has been or reasonably is expected to be incurred by Holdings, any of its Subsidiaries or any of their ERISA Affiliates. Except as set forth in Schedule 4.19 (and except for changes in matters identified in Schedule 4.19 that are not, individually or in the aggregate, material), no ERISA Event has occurred or is reasonably expected to occur. Except as set forth in Schedule 4.19, and except to the extent required under Section 4980B of the Internal Revenue Code or similar state laws, no Employee Benefit Plan provides health or welfare benefits (through the purchase of insurance or otherwise) for any retired or former employee of Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates. Except as set forth in Schedule 4.19 (and except for changes in matters identified in Schedule 4.19 that are not, individually or in the aggregate, material), the present value of the aggregate benefit liabilities under each Pension Plan sponsored, maintained or contributed to by Holdings, any of its Subsidiaries or any of their ERISA Affiliates, (determined as of the end of the most recent plan year on the basis of the actuarial assumptions specified for funding purposes in the most recent actuarial valuation for such Pension Plan), did not exceed the aggregate current value of the assets of such Pension Plan. Neither Holdings, its Subsidiaries nor their respective ERISA Affiliates maintains, contributes to or is required to contribute to any Multiemployer Plan.

4.20 Certain Fees. Except as otherwise disclosed in writing to Administrative Agent and Arranger, no broker's or finder's fee or commission will be payable with respect hereto or any of the transactions contemplated hereby, and Company hereby indemnifies Lenders, Agents and Arranger against, and agrees that it will hold Lenders, Agents and Arranger harmless from, any claim, demand or liability for any such broker's or finder's fees alleged to have been incurred in connection herewith or therewith and any expenses (including reasonable fees, expenses and disbursements of counsel) arising in connection with any such claim, demand or liability.

4.21 Solvency. Borrower is, and Holdings and its Subsidiaries (on a consolidated basis), are, and, upon the incurrence of any Obligation by any Credit Party on any date on which this representation and warranty is made, will be, Solvent.

4.22 Collateral.

(a) Collateral Documents. The security interests created in favor of Collateral Agent under the Collateral Documents constitute, as security for the obligations purported to be secured thereby, a legal, valid and enforceable security interest in all of the Collateral referred to therein in favor of Collateral Agent for the benefit of the Lenders. The security interests in and Liens upon the Collateral described in the Collateral Documents are valid and perfected First Priority or Second Priority Liens (in accordance with the priorities set forth in the Intercreditor Agreement) to the extent such security interests and Liens can be perfected by such filings and recordations. No consents, filings or recordings are required in order to perfect (or maintain the perfection or priority of) the security interests purported to be created by any of the Collateral Documents, other than (i) such as have been obtained and which remain in full force and effect, (ii) the periodic filing of UCC continuation statements in respect of UCC financing statements filed by or on behalf of Collateral Agent, and (iii) with respect to such items of Collateral as to which this Agreement or the Collateral Documents do not require any consent, filing or recordation.

(b) Absence of Third Party Filings. Except such as may have been filed in favor of Collateral Agent as contemplated by Section 4.23(a) above and except as set forth on Schedule 4.22 annexed hereto or, after the Closing Date, as may have been filed with respect to a Lien permitted by Section 6.2, (i) no effective UCC financing statement, fixture filing or other instrument similar in effect covering all or any part of the Collateral is on file in any filing or recording office and (ii) no effective filing with respect to a Lien covering all or any part of the Collateral is on file with the United States Patent and Trademark Office or United States Copyright Office or any other Governmental Authority.

4.23 Disclosure. No representation or warranty of Holdings and its Subsidiaries contained in any Credit Document or in any other documents, certificates or written statements furnished to Lenders by or on behalf of Holdings or any of its Subsidiaries for use in connection with the transactions contemplated hereby or thereby contains any untrue statement of a material fact or omits (when taken as a whole) to state a material fact (known to Holdings or Company, in the case of any document not furnished by either of them) necessary in order to make the statements contained herein or therein not misleading in light of the circumstances in which the same were made. Any projections and pro forma financial information contained in such materials are based upon good faith estimates and assumptions believed by Holdings or Company to be reasonable at the time made, it being recognized by Lenders that such projections as to future events are not to be viewed as facts and that actual results during the period or periods covered by any such projections may differ from the projected results. There is no fact known to Holdings or Company (other than matters of a general economic nature) that, individually or in the aggregate, has had, or could reasonably be expected to result in, a Material

Adverse Effect and that has not been disclosed herein or in such other documents, certificates and statements furnished to Lenders for use in connection with the transactions contemplated hereby.

4.24 Deposit Accounts

Annexed hereto as Schedule 4.24 is a list of all Deposit Accounts maintained by the Credit Parties as of the Closing Date, which Schedule includes, with respect to each deposit account (i) the name and address of the depository; (ii) the account number(s) maintained with such depository; and (iii) a contact person at such depository.

SECTION 5. AFFIRMATIVE COVENANTS

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

5.1 Financial Statements and Other Reports. Holdings will deliver to Administrative Agent and Collateral Agent for each Lender:

(a) [RESERVED]

(b) Quarterly Financial Statements. Within two (2) Business Days after the date on which Holdings files or is required to file its Form 10-Q under the Exchange Act (but without giving effect to any extension pursuant to Rule 12b-25 under the Exchange Act (or any successor rule) or otherwise) (or, if Holdings is not required to file a Form 10-Q under the Exchange Act, within fifty (50) days after the end of each of the first three Fiscal Quarters of each Fiscal Year (commencing with the Fiscal Quarter ending June 30, 2007)), (i) the consolidated and consolidating balance sheets of Holdings and its Subsidiaries as at the end of such Fiscal Quarter and the related consolidated (and with respect to statements of income, consolidating) statements of income and cash flows of Holdings and its Subsidiaries for such Fiscal Quarter and for the period from the beginning of the then current Fiscal Year to the end of such Fiscal Quarter, setting forth in each case in comparative form the corresponding figures for the corresponding periods of the previous Fiscal Year and the corresponding figures from the Financial Plan for the current Fiscal Year, all prepared in accordance with GAAP and in reasonable detail and certified by the chief financial officer, senior vice president-finance, treasurer or controller of Company or Holdings that they fairly present, in all material respects, the consolidated financial condition of Holdings and its Subsidiaries as at the dates indicated and the results of their operations and their cash flows for the periods indicated, subject to changes resulting from audit and normal year-end adjustments and the absence of footnotes, and (ii) a narrative report describing the financial condition and results of operations of Holdings and its Subsidiaries for such Fiscal Quarter in form and substance reasonably satisfactory to Administrative Agent;

(c) Annual Financial Statements. Within two (2) Business Days after the date on which the Holdings files or is required to file its Form 10-K under the Exchange Act (but without giving effect to any extension pursuant to Rule 12b-25 under the Exchange Act (or any successor rule) or otherwise) (or, if Holdings is not required to file a Form 10-K under the Exchange Act, within one hundred (100) days after the end of each Fiscal Year (commencing with the Fiscal Year ending December 31, 2007)), (i) the consolidated and consolidating balance sheets of Holdings and its Subsidiaries as at the end of such Fiscal Year and the related consolidated (and with respect to statements of income, consolidating) statements of income, stockholder's equity and cash flows of Holdings and its Subsidiaries for such Fiscal Year, setting forth in each case in comparative form the corresponding figures for the previous Fiscal Year and the corresponding figures from the Financial Plan for the Fiscal Year covered by such financial statements, all prepared in accordance with GAAP and in reasonable detail and certified by the chief financial officer, senior vice president-finance, treasurer or controller of Company or Holdings that they fairly present, in all material respects, the consolidated financial condition of Holdings and its Subsidiaries as at the dates indicated and the results of their operations and their cash flows for the periods indicated, and (ii) a narrative report describing the financial condition and results of operations of Holdings and its Subsidiaries in form and substance reasonably satisfactory to Administrative Agent; (iii) with respect to such consolidated financial statements a report thereon of independent certified public accountants of recognized national standing selected by Holdings, and reasonably satisfactory to Administrative Agent (which report shall be unqualified as to going concern and scope of audit, and shall state that such consolidated financial statements fairly present, in all material respects, the consolidated financial position of Holdings and its Subsidiaries as at the dates indicated and the results of their operations and their cash flows for the periods indicated in conformity with GAAP applied on a basis consistent with prior years (except as otherwise disclosed in such financial statements) and that the examination by such accountants in connection with such consolidated financial statements has been made in accordance with generally accepted auditing standards) together with a written statement by such independent certified public accountants stating (1) that their audit examination has included a review of the terms of the Credit Documents, and (2) whether, in connection therewith, any condition or event that constitutes a Default or an Event of Default under Section 6.8 or otherwise with respect to accounting matters has come to their attention and, if such a condition or event has come to their attention, specifying the nature and period of existence thereof;

(d) Compliance Certificate. Together with each delivery of financial statements of Holdings and its Subsidiaries pursuant to Sections 5.1(b) and 5.1(c), a duly executed and completed Compliance Certificate;

(e) Statements of Reconciliation after Change in Accounting Principles. If, as a result of any change in accounting principles and policies from those used in the preparation of the financial statements referred to in Section 4.7, the consolidated financial statements of Holdings and its Subsidiaries delivered pursuant to Section 5.1(b) or 5.1(c) will differ in any material respect from the consolidated financial statements that would have been delivered pursuant to such subdivisions had no such change in accounting principles and policies been made, then, together with the first delivery of such financial statements after such change, one or

more statements of reconciliation for all such prior financial statements in form and substance reasonably satisfactory to Administrative Agent;

(f) Notice of Default, etc. Promptly upon, and in any event within five (5) days after, any officer of Holdings or any of its Subsidiaries obtaining knowledge (i) of any condition or event that constitutes a Default or an Event of Default or that notice has been given to Holdings or any of its Subsidiaries with respect thereto; (ii) that any Person has given any notice to Holdings or any of its Subsidiaries or taken any other action with respect to any claimed default or event or condition of the type referred to in Section 8.1(b); or (iii) of the occurrence of any event or change that has caused or evidences or would reasonably be expected to have, either in any case or in the aggregate, a Material Adverse Effect; a certificate of its Authorized Officers specifying the nature and period of existence of such condition, event or change, or specifying the notice given and action taken by any such Person and the nature of such claimed Event of Default, Default, default, event or condition, and what action Holdings or the applicable Subsidiary has taken, is taking and proposes to take with respect thereto;

(g) Notice of Litigation. Promptly upon, and in any event within five (5) days after, any officer of Holdings or any of its Subsidiaries obtaining knowledge of (i) the institution of, or non-frivolous threat of, any Adverse Proceeding not previously disclosed in writing by Company to Lenders, or (ii) any material development in any Adverse Proceeding that, in the case of either (i) or (ii) if adversely determined, could be reasonably expected to have a Material Adverse Effect, or seeks to enjoin or otherwise prevent the consummation of, or to recover any damages or obtain relief as a result of, the transactions contemplated hereby, written notice thereof together with such other information as may be reasonably available to Holdings or any of its Subsidiaries to enable Lenders and their counsel to evaluate such matters;

(h) ERISA. (i) Promptly upon becoming aware of the occurrence of or forthcoming occurrence of any ERISA Event, a written notice specifying the nature thereof, what action Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates has taken, is taking or proposes to take with respect thereto and, when known, any action taken or threatened by the Internal Revenue Service, the Department of Labor or the PBGC with respect thereto; and (ii) with reasonable promptness, copies of (1) each Schedule B (Actuarial Information) to the annual report (Form 5500 Series) filed by Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates with the Internal Revenue Service with respect to each Pension Plan and (2) copies of such other documents or governmental reports or filings relating to any Employee Benefit Plan as Administrative Agent shall reasonably request;

(i) Financial Plan. As soon as practicable and in any event no later than 90 days after the beginning of each Fiscal Year, a monthly consolidated and consolidating plan and financial forecast for such Fiscal Year (a "**Financial Plan**"), including a forecasted consolidated balance sheet and forecasted consolidated and consolidating statements of income and consolidated statement of cash flows of Holdings and its Subsidiaries for such Fiscal Year, together with pro forma Compliance Certificates for each such Fiscal Year and an explanation of the assumptions on which such forecasts are based;

(j) Insurance Report. As soon as practicable and in any event by the last day of each calendar year, a report in form and substance reasonably satisfactory to Administrative Agent outlining all material insurance coverage maintained as of the date of such report by Holdings and its Subsidiaries and all material insurance coverage planned to be maintained by Holdings and its Subsidiaries in the immediately succeeding calendar year;

(k) Accountants' Reports. Promptly upon receipt thereof (unless restricted by applicable professional standards), copies of all reports submitted to Holdings or Company by independent certified public accountants in connection with each annual, interim or special audit of the financial statements of Holdings and its Subsidiaries made by such accountants, including any comment letter submitted by such accountants to management in connection with their annual audit;

(l) [RESERVED]

(m) Environmental Reports and Audits. As soon as practicable following receipt thereof, copies of all environmental audits and reports, whether prepared by personnel of Company or any of its Subsidiaries or by independent consultants, with respect to environmental matters at any Facility or which relate to any environmental liabilities of Holdings or its Subsidiaries which, in any such case, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect;

(n) Other Information. (A) Promptly upon their becoming available, copies of (i) all financial statements, reports, notices and proxy statements sent or made available generally by Holdings to holders of its Indebtedness or to holders of its public equity securities or by any Subsidiary of Holdings to its security holders other than Holdings or another Subsidiary of Holdings, (ii) all regular and periodic reports and all registration statements and prospectuses, if any, filed by Holdings or any of its Subsidiaries with any securities exchange or with the Securities and Exchange Commission or any governmental or private regulatory authority, (iii) all press releases and other statements made available generally by Holdings or any of its Subsidiaries to the public concerning material developments in the business of Holdings or any of its Subsidiaries, and (B) such other information and data with respect to Holdings or any of its Subsidiaries (including, without limitation, financial statements with respect to Holdings and its Subsidiaries) as from time to time may be reasonably requested by Administrative Agent or any Lender;

Existence. Except as otherwise permitted under Section 6.9, each Credit Party will, and will cause each of its Subsidiaries to, at all times preserve and keep in full force and effect (i) its existence and (ii) all rights and franchises, licenses and permits material to the business of Holdings and its Subsidiaries (on a consolidated basis).

Payment of Taxes and Claims. Each Credit Party will, and will cause each of its Subsidiaries to, pay all Taxes imposed upon it or any of its properties or assets or in respect of any of its income, businesses or franchises before any penalty or fine accrues thereon, and all claims (including claims for labor, services, materials and supplies) for sums that have become due and payable which, if unpaid, might become a Lien upon any of its properties or assets; provided, no such Tax or claim need be paid if it is being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, so long as adequate reserve or other appropriate provision, as shall be required in conformity with GAAP shall have been made therefor. No Credit Party will, nor will it permit any of its Subsidiaries to, file or consent to the filing of any consolidated income tax return with any Person (other than Holdings or any of its Subsidiaries).

Maintenance of Properties. Each Credit Party will, and will cause each of its Subsidiaries to, maintain or cause to be maintained in good repair, working order and condition, ordinary wear and tear excepted, all material properties owned by Holdings, Company or its Subsidiaries or used or useful in the business of Company and its Subsidiaries (including all Intellectual Property) and from time to time will make or cause to be made all appropriate repairs, renewals and replacements thereof.

Insurance. Each Credit Party will, and will cause each of its Subsidiaries to, maintain or cause to be maintained, with financially sound and reputable insurers, such public liability insurance, third party property damage insurance, business interruption insurance and casualty insurance with respect to liabilities, losses or damage in respect of the assets, properties and businesses of Company and its Subsidiaries as may customarily be carried or maintained under similar circumstances by Persons of established reputation engaged in similar businesses, in each case in such amounts (giving effect to self-insurance), with such deductibles, covering such risks and otherwise on such terms and conditions as shall be customary for such Persons. Without limiting the generality of the foregoing, each Credit Party will, and will cause each of its Subsidiaries to, maintain or cause to be maintained (a) flood insurance with respect to each Flood Hazard Property that is located in a community that participates in the National Flood Insurance Program, in each case in compliance with any applicable regulations of the Board of Governors of the Federal Reserve System, and (b) replacement value casualty insurance on the Collateral under such policies of insurance, with such insurance companies, in such amounts, with such deductibles, and covering such risks as are at all times carried or maintained under similar circumstances by Persons of established reputation engaged in similar businesses. Each such policy of insurance shall (i) name the Administrative Agent, the Collateral Agent and the Lenders as an additional insured thereunder as its interests may appear and (ii) in the case of each casualty insurance policy, contain a loss payable clause or endorsement, satisfactory in form and substance to Collateral Agent, that names the Collateral Agent, on behalf of Lenders as the loss payee thereunder and provides for at least thirty (30) days' prior written notice to Collateral Agent of any modification or cancellation of such policy.

Inspections. Each Credit Party will, and will cause each of its Subsidiaries to, permit any authorized representatives designated by Administrative Agent, Collateral Agent or

any Lender (and, in the case of any Lender, accompanied by Administrative Agent or Collateral Agent) to visit and inspect any of the properties of any Credit Party and any of its respective Subsidiaries, to inspect the Collateral, or otherwise to inspect, copy and take extracts from its and their financial and accounting records, and to discuss its and their properties, assets, affairs, finances and accounts with its and their officers and independent public accountants (it being understood that, prior to the occurrence and continuance of an Event of Default, (x) any such discussions or meetings shall be limited to Administrative Agent and (y) in the case of discussions or meetings with the independent public accountants, only if Company has been given the opportunity to participate in such discussions or meetings), all upon reasonable notice and at such reasonable times during normal business hours and as often as may reasonably be requested.

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

Compliance with Laws. Each Credit Party will comply, and shall cause each of its Subsidiaries to comply, with the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority (including all Environmental Laws), noncompliance with which could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Environmental.

(a) Environmental Disclosure. Each Credit Party will, and will cause each of its Subsidiaries to, deliver to Administrative Agent and Lenders:

(i) as soon as practicable following receipt thereof, copies of all material environmental audits, investigations, analyses and reports of any kind or character, whether prepared by personnel of Holdings or any of its Subsidiaries or by independent consultants, governmental authorities or any other Persons, with respect to significant environmental matters at any Facility or with respect to any Environmental Claims; provided, however, that this Section 5.9(a)(i) shall not apply to communications covered by valid claims of attorney client privilege or to attorney work product generated by legal counsel to Holdings or any of its Subsidiaries;

(ii) promptly upon the occurrence thereof, written notice describing in reasonable detail (1) any Release required to be reported to any

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

(iii) as soon as practicable following the sending or receipt thereof by Holdings or any of its Subsidiaries, a copy of any and all written communications to or from any Governmental Authority or any Person bringing an Environmental Claim against Holdings or any of its Subsidiaries with respect to: (1) any Environmental Claims that, individually or in the aggregate, have a reasonable possibility of giving rise to a Material Adverse Effect, (2) any Release required to be reported to any Governmental Authority, and (3) any written request for information from any Governmental Authority stating such Governmental Authority is investigating whether Holdings or any of its Subsidiaries may be potentially responsible for any Hazardous Materials Activity; and

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

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

Subsidiaries. In the event that any Person becomes a Domestic Subsidiary of Company, Company shall (a) promptly, and in any event within ten (10) days, cause such

Domestic Subsidiary to become a Guarantor hereunder and a Grantor under the Pledge and Security Agreement by executing and delivering to Administrative Agent and Collateral Agent a Counterpart Agreement, and (b) take all such actions and execute and deliver, or cause to be executed and delivered, all Perfection Deliverables and such documents, instruments, agreements, opinions and certificates as are similar to those described in Sections 3.1(b) and 3.1(f), and any other actions required by the Pledge and Security Agreement. In the event that any Person becomes a Foreign Subsidiary of Company, and the ownership interests of such Foreign Subsidiary are owned by Company or by any Domestic Subsidiary thereof, Company shall, or shall cause such Domestic Subsidiary to, promptly, and in any event within ten (10) days, deliver all such documents, instruments, agreements, and certificates as are similar to those described in Section 3.1(b), and Company shall take, or shall cause such Domestic Subsidiary to take, all of the actions referred to in clause (i) of the definition of "Perfection Deliverables" necessary to grant and to perfect a First Priority of Second Priority Lien (in accordance with the priorities set forth in the Intercreditor Agreement) in favor of Collateral Agent, for the benefit of Secured Parties, under the Pledge and Security Agreement in 66% of such ownership interests. With respect to each such Subsidiary, Company shall promptly send to Administrative Agent written notice setting forth with respect to such Person (i) the date on which such Person became a Subsidiary of Company, and (ii) all of the data required to be set forth in Schedules 4.1 and 4.2 with respect to all Subsidiaries of Company; provided, such written notice upon Administrative Agent's approval of the contents therein shall be deemed to supplement Schedule 4.1 and 4.2 for all purposes hereof. Notwithstanding anything to the contrary in this Section 5.10, the requirements of this Section 5.10 shall not apply to any property or Subsidiary created or acquired after the Closing Date, as to which the Collateral Agent has determined in its sole discretion that the collateral value thereof is insufficient to justify the difficulty, time and/or expense of obtaining a perfected security interest therein. The Collateral Agent is hereby authorized by the Lenders to enter into such amendments to the Collateral Documents as the Collateral Agent deems necessary to effectuate the provisions of this Section 5.10.

Additional Real Estate Assets. In the event that any Credit Party acquires, or any Person that becomes a Credit Party holds, a Real Estate Asset that is (a) a fee interest with a fair market value equal to or greater than $500,000 or (b) a leasehold interest with a value that Administrative Agent in its sole discretion, after consultation with Company, determines is material, and such interest has not otherwise been made subject to a perfected First Priority or Second Priority Lien (in accordance with the priorities set forth in the Intercreditor Agreement) of the Collateral Documents in favor of Collateral Agent, for the benefit of Secured Parties, then such Credit Party shall, promptly, and in any event within ten (10) days of such Credit Party acquiring such Real Estate Asset or such Person becoming a Credit Party, take all such actions and execute and deliver, or cause to be executed and delivered, all Real Estate Asset Deliverables and Perfection Deliverables with respect to each such Real Estate Asset to create in favor of Collateral Agent, for the benefit of Secured Parties, a valid and, subject to any filing and/or recording referred to herein, perfected First Priority or Second Priority Lien (in accordance with the priorities set forth in the Intercreditor Agreement) in such Real Estate Assets, and reports and other information reasonably satisfactory to Administrative Agent regarding environmental matters (including, without limitation, a Phase I Report) with respect to such Real Estate Assets. In addition to the foregoing, Company shall, at the request of Requisite Lenders, deliver, from time to time (but, prior to the occurrence and during the continuance of a

Default or Event of Default, not more than once every two calendar years), to Administrative Agent such appraisals of Real Estate Assets with respect to which Collateral Agent has been granted a Lien. Notwithstanding anything to the contrary in this Section 5.11, the requirements of this Section 5.11 shall not apply to any Real Estate Asset acquired after the Closing Date, as to which the Collateral Agent has determined in its sole discretion that the collateral value thereof is insufficient to justify the difficulty, time and/or expense of obtaining a perfected security interest therein. The Collateral Agent is hereby authorized by the Lenders to enter into such amendments to the

Collateral Documents as the Collateral Agent deems necessary to effectuate the provisions of this Section 5.11.

[Reserved].

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

ERISA. Neither Holdings, its Subsidiaries or their respective ERISA Affiliates shall establish, maintain, contribute to, or become required to contribute to any Multiemployer Plan.

Maintenance of Credit Rating. Holdings shall use its commercially reasonable efforts (including the timely payment of all customary amounts and the timely submission of all customary documentation) to ensure that (i) the credit facility provided for under this Agreement shall at all times have a credit rating assigned by S&P and Moody's and (ii) the Borrower shall at all times have a corporate credit rating assigned by S&P and Moody's; provided, however, that in the event either S&P or Moody's ceases to exist, ceases to be in the business of issuing ratings in respect of credit facilities, or the rating of such facilities is not otherwise obtainable from such agencies, then Holdings shall use its commercially reasonable efforts (including the timely payment of all customary amounts and the timely submission of all customary documentation) to ensure that such facilities are rated by another nationally recognized statistical rating agency acceptable to Administrative Agent.

SECTION 6. NEGATIVE COVENANTS

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

Indebtedness. Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or guaranty, or otherwise become or remain directly or indirectly liable with respect to any Indebtedness, except:

(a) the Obligations;

(b) Company may become and remain liable with respect to Indebtedness to any of its wholly-owned Guarantor Subsidiaries, and any wholly-owned Guarantor Subsidiary of Company may become and remain liable with respect to Indebtedness to Company or any other wholly-owned Guarantor Subsidiary of Company; provided, (i) all such Indebtedness under this subclause (b) shall be (x) evidenced by promissory notes and all such notes shall be subject to a First Priority or Second Priority Lien (in accordance with the priorities set forth in the Intercreditor Agreement) pursuant to the Pledge and Security Agreement and (y) unsecured and subordinated in right of payment to the payment in full of the Obligations pursuant to the terms of the applicable promissory notes or an intercompany subordination agreement that in any such case, is reasonably satisfactory to Administrative Agent, and (ii) any payment by any such Subsidiary under any guaranty of the Obligations shall result in a pro tanto reduction of the amount of any Indebtedness owed by such Subsidiary to Company or to any of its Subsidiaries for whose benefit such payment is made;

(c) [RESERVED];

(d) Indebtedness of Company and its Subsidiaries arising in respect of netting services or overdraft protections with deposit accounts; provided, that such Indebtedness is extinguished within three (3) Business Days of its incurrence;

(e) guaranties by Company of Indebtedness of a Guarantor Subsidiary or guaranties by a Subsidiary of Company of Indebtedness of Company or a Guarantor Subsidiary with respect, in each case, to Indebtedness otherwise permitted to be incurred pursuant to this Section 6.1;

(f) Indebtedness of Company and its Subsidiaries existing on the Closing Date and described in Schedule 6.1, but not any extensions, renewals, refinancings or replacements of such Indebtedness except (i) renewals and extensions expressly provided for in the agreements evidencing any such Indebtedness as the same are in effect on the date of this Agreement and (ii) refinancings and extensions of any such Indebtedness if the terms and conditions thereof are not materially less favorable (taken as a whole) to the obligor thereon or to the Lenders than the Indebtedness being refinanced or extended, and the average life to maturity thereof is greater than or equal to that of the Indebtedness being refinanced or extended; provided, such Indebtedness permitted under the immediately preceding clause (i) or (ii) above shall not (A) include Indebtedness of an obligor that was not an obligor with respect to the

Indebtedness being extended, renewed or refinanced or (B) exceed in a principal amount the Indebtedness being renewed, extended or refinanced;

(g) purchase money Indebtedness of Company and its Subsidiaries and Capital Leases (other than in connection with sale-leaseback transactions) of Company and its Subsidiaries, in each case incurred in the ordinary course of business to provide all or a portion of the purchase price or cost of construction of an asset or an improvement of an asset not constituting part of the Collateral; provided, that (A) such Indebtedness when incurred shall not exceed the purchase price or cost of improvement or construction of such asset, (B) no such Indebtedness shall be refinanced for a principal amount in excess of the principal balance outstanding thereon at the time of such refinancing, (C) such Indebtedness shall be secured only by the asset acquired, constructed or improved in connection with the incurrence of such Indebtedness and (D) the aggregate principal amount of all such Indebtedness shall not exceed $7,500,000 at any time outstanding;

(h) other Indebtedness of Company and its Subsidiaries, which is unsecured, in an aggregate principal amount not to exceed $10,000,000 at any time outstanding;

(i) Indebtedness of Company under any Interest Rate Agreement or Currency Agreement entered into for hedging purposes and in form and substance reasonably satisfactory to the Administrative Agent;

(j) Indebtedness evidenced by the Revolving Credit Documents in an aggregate amount not to exceed an amount equal to $60.0 million (less the amount of all permanent reductions of the Revolving Loan Commitments (as defined in the Revolving Credit Facility)) and any Permitted Refinancing of the Revolving Credit Facility;

(k) additional senior unsecured or subordinated unsecured Indebtedness, the terms and conditions of which (i) shall provide for a maturity date no earlier than 180 days after the Additional Term Loan Maturity Date hereunder and with no scheduled amortization or other scheduled payments of principal prior to such date and (ii) shall be reasonably satisfactory to Administrative Agent; provided, that (A) after giving pro forma effect to the incurrence of such Indebtedness (and, if applicable,

giving pro forma effect to any Subject Transaction pursuant to Section 6.8(c)), (1) the Leverage Ratio is not greater than 4.0 to 1.0 or (2) the Consolidated Coverage Ratio is at least 2.0 to 1.0 and (B) no Default or Event of Default has occurred or is continuing at the time of incurrence or would result therefrom;

(l) Indebtedness of a Person existing at the time such Person becomes a Subsidiary of Company following the Closing Date, which Indebtedness is in existence at the time such Person becomes a Subsidiary and is not created in connection with or in contemplation of such Person becoming a Subsidiary; provided that the aggregate principal amount of all such Indebtedness in the aggregate shall not exceed $5,000,000 at any time outstanding;

(m) Indebtedness of Holdings which is unsecured and subordinated to the Obligations in a manner satisfactory to Administrative Agent and which is issued in connection with the redemption or replacement of any preferred Capital Stock of Holdings, in principal amount not to exceed the amount of such preferred Capital Stock being redeemed or replaced, the terms and conditions of which (i) shall provide for a maturity date at least one year after the Additional Term Loan Maturity Date hereunder, with no scheduled amortization of principal or mandatory prepayments prior to such date, (ii) no scheduled or mandatory cash interest payments prior to such date, except to the extent Holdings has sufficient cash therefor and (iii) shall otherwise be satisfactory to Administrative Agent;

(n) Capital Leases of Company entered into in connection with sale-leaseback transactions permitted by Section 6.3;provided, that (A) no such Indebtedness shall be refinanced for a principal amount in excess of the principal balance outstanding thereon at the time of such refinancing and (B) such Indebtedness shall be secured only by the facility which is the subject of such Capital Lease; and

(o) additional secured Indebtedness, the terms and conditions of which (i) shall provide for a maturity date at least 180 days after the Additional Term Loan Maturity Date hereunder with no scheduled amortization of principal prior to such date, (ii) unless reasonably satisfactory to the Administrative Agent pursuant to clause (iii) below, shall be no more restrictive (without taking into account fees or interest rates), taken as a whole, than those set forth in the Term Loan Documents as in effect on the Closing Date, and (iii) shall otherwise be reasonably satisfactory to Administrative Agent; provided, that (A) after giving pro forma effect to the incurrence of such Indebtedness (and, if applicable, giving pro forma effect to any Subject Transaction pursuant to Section 6.8(c)), the Secured Debt Ratio is less than 2.5 to 1.0 and (B) no Default or Event of Default has occurred or is continuing at the time of incurrence or would result therefrom.

Liens. Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or permit to exist any Lien on or with respect to any property or asset of any kind (including any document or instrument in respect of goods or accounts receivable) of Holdings, Company or any such Subsidiaries, whether now owned or hereafter acquired, or any income or profits therefrom, except:

(a) Liens in favor of Collateral Agent for the benefit of Secured Parties granted pursuant to any Credit Document;

(b) Liens imposed by law for Taxes that are not yet required to be paid pursuant to Section 5.3;

(c) statutory Liens of landlords, banks (and rights of set-off), of carriers, warehousemen, mechanics, repairmen, workmen and materialmen, and other Liens imposed by

law (other than any such Lien imposed pursuant to Section 401(a)(29) or 412(n) of the Internal Revenue Code or by ERISA), in each case incurred in the ordinary course of business (i) for amounts not yet overdue or (ii) for amounts that are overdue and that (in the case of any such amounts overdue for a period in excess of five (5) days) are being contested in good faith by appropriate proceedings, so long as such reserves or other appropriate provisions, if any, as shall be required by GAAP shall have been made for any such contested amounts;

(d) deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, or to secure the performance of tenders, statutory obligations, surety and appeal bonds, bids, leases, government contracts, trade contracts, performance and return-of-money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money or other Indebtedness), so long as no foreclosure, sale or similar proceedings have been commenced with respect to any portion of the Collateral on account thereof;

(e) easements, rights-of-way, restrictions, encroachments, minor defects or irregularities in title and other similar charges, in each case which do not and will not interfere in any material respect with the use or value thereof or which appear on a title report delivered to Administrative Agent prior to the date hereof;

(f) any interest or title of a lessor or sublessor under any operating or true lease of real estate entered into by Company or its Subsidiaries in the ordinary course of its business covering only the assets so leased;

(g) purported Liens evidenced by the filing of precautionary UCC financing statements relating solely to operating leases of personal property entered into in the ordinary course of business;

(h) any attachment or judgment Lien not constituting an Event of Default under Section 8.1(h);

(i) non-exclusive licenses of Intellectual Property granted by Company or any of its Subsidiaries in the ordinary course of business consistent with past practice and not interfering in any respect with the ordinary conduct of the business of Company or such Subsidiary;

(j) bankers liens and rights of set-off with respect to customary depositary arrangements entered into in the ordinary course of business of Company and its Subsidiaries;

(k) Liens granted by Company or its Subsidiaries existing on the Closing Date and described in Schedule 6.2;provided, that (A) no such Lien shall at any time be extended to

cover property or assets other than the property or assets subject thereto on the Closing Date and (B) the principal amount of the Indebtedness secured by such Liens shall not be extended, renewed, refunded, replaced or refinanced except as otherwise permitted by Section 6.1(f);

(l) Liens securing (i) Indebtedness permitted pursuant to Section 6.1(g), provided, any such Lien shall encumber only the asset acquired, constructed or improved with the proceeds of such Indebtedness and (ii) Indebtedness permitted pursuant to Section 6.1(n), provided any such Lien shall encumber only the facility with is the subject of such Capital Lease;

(m) Liens securing Indebtedness permitted under Section 6.1(l); provided that such Liens are of a type described in Section 6.2(l)(i) and are not created in contemplation of or in connection with such Person becoming a Subsidiary, such Liens will not apply to any other property of Holdings or any of its Subsidiaries, and such Liens will secure only those obligations secured by such Liens on the date such Person becomes a Subsidiary; and

(n) Liens securing Indebtedness permitted under Section 6.1(j) or 6.1(o).

Sales and Leasebacks. Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to directly or indirectly, become or remain liable as lessee or as a guarantor or other surety with respect to any lease, whether an operating lease or a Capital Lease, of any property (whether real, personal or mixed), whether now owned or hereafter acquired, (a) which Holdings or any of its Subsidiaries has sold or transferred or is to sell or transfer to any other Person (other than Holdings or any of its Subsidiaries) or (b) which Holdings or any of its Subsidiaries intends to use for substantially the same purpose as any other property which has been or is to be sold or transferred by such Credit Party to any Person (other than Holdings or any of its Subsidiaries) in connection with such lease; provided that Company and its Subsidiaries may (i) become and remain liable as lessee, guarantor or other surety with respect to any such lease which is a Capital Lease permitted pursuant to Section 6.1(g), and (ii) so long as no Default or Event of Default has occurred or is continuing or shall be caused thereby, sale-leaseback transactions in respect of up to any manufacturing Facilities owned by Company as of the Closing Date; provided, further, that (A) the material terms and conditions of such sale-leaseback transaction (including any Capital Lease in connection with such transaction) shall be reasonably satisfactory to the Administrative Agent, (B) Collateral Agent is granted a valid First Priority or Second Priority Lien (in accordance with the priorities set forth in the Intercreditor Agreement) in Company's leasehold interest in connection with such transaction, (C) the lessor (or lenders under any Capital Lease) in connection with such transaction shall agree to provide Collateral Agent access to the Collateral located at such facility pursuant to an agreement reasonably satisfactory to Administrative Agent and the Collateral Agent (the terms of which shall include subordination and non-disturbance provisions with respect to any such Collateral, and other terms as may be reasonably required by Administrative Agent or the Collateral Agent), (D) the amount of consideration payable to Company or its Subsidiaries (and the aggregate principal amount of Indebtedness in respect of any Capital Leases) in any such transaction shall not exceed the fair market value of any such facility (determined in good faith by the board of directors of Company (or similar governing body)), and shall not exceed $30,000,000 in the

aggregate and (E) the Net Asset Sale Proceeds with respect to any such Capital Lease shall be applied to repay Indebtedness to the extent required pursuant to Section 2.14(b).

No Further Negative Pledges. Except (i) pursuant to this Agreement, (ii) pursuant to the terms of Indebtedness permitted under Section 6.1(h), 6.1(j), 6.1(k) or 6.1(o), (iii) with respect to specific property encumbered to secure payment of particular Indebtedness or to be sold pursuant to an executed agreement with respect to a permitted Asset Sale, (iv) pursuant to customary non-assignment or no-subletting clauses in leases, licenses or contracts entered into in the ordinary course of business, which restrict only the assignment of such lease, license or contract, as applicable, or (v) in connection with purchase money financing or Capital Leases permitted under Section 6.1(g), 6.1(l) or 6.1(n) (in each case provided the prohibition applies only to the asset being acquired or constructed, or which is the subject of such Capital Lease), each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to, enter into any agreement prohibiting the creation or assumption of any Lien upon any of its properties or assets, whether now owned or hereafter acquired.

Restricted Payments. Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries or Affiliates through any manner or means or through any other Person to, directly or indirectly, declare, order, pay, make or set apart, or agree to declare, order, pay, make or set apart, or agree to declare, order, pay, make or set apart, any sum for any Restricted Payment except that:

(a) Subsidiaries of Company may make Restricted Payments (i) to Company or to any parent entity of such Subsidiary which is a wholly-owned Guarantor Subsidiary and (ii) on a pro rata basis to the equity holders of any other Guarantor Subsidiary;

(b) (i) so long as no Default or Event of Default shall have occurred and be continuing or shall be caused thereby, Company and its Subsidiaries may make prepayments and regularly scheduled payments of principal and interest in respect of any Indebtedness permitted under Sections 6.1(b), (ii) Company and its Subsidiaries may make scheduled payments and mandatory prepayments of principal, and regularly scheduled payments of interest in respect of and, so long as no Default or Event of Default shall have occurred and be continuing, voluntary repayments of, any Indebtedness permitted under Section 6.1(h), (iii) Company and its Subsidiaries may make mandatory prepayments and regularly scheduled payments of principal and interest in respect of any Indebtedness permitted under Section 6.1(k) (to the extent constituting subordinated Indebtedness) or 6.1(n), but only to the extent such payments are permitted by the terms, and subordination provisions (if any) applicable to, such Indebtedness, and (iv) Company and its Subsidiaries may make payments in respect of guarantees permitted under Section 6.1(e) to the extent the Indebtedness guaranteed thereby is permitted to be paid under this Section 6.5 (in each case under the foregoing subclauses (i), (ii) and (iii) in accordance with the terms of, and only to the extent required by, and subject to the subordination provisions contained in, the indenture or other agreement pursuant to which such Indebtedness as issued);

(c) Company may make Restricted Payments to Holdings to the extent reasonably necessary to permit Holdings (in each case so long as Holdings applies the amount of any such Restricted Payment for such purpose within five (5) days of receipt of such amount) (i) to pay general administrative and corporate overhead costs and expenses (including, without limitation, expenses arising by virtue of Holdings' status as a public company (including fees and expenses related to filings with the Securities and Exchange Commission, roadshow expenses, printing expenses and fees and expenses of attorneys and auditors)), (ii) so long as no Default or Event of Default, in each case, in respect of Section 8.1(a), 8.1(f) or 8.1(g) shall have occurred and be continuing or shall be caused thereby, to pay the fees and expenses to Sponsor required to be paid under the Management Services Agreement, as in effect on December 16, 2004 or after giving effect to any amendment, restatement or other modification thereto in accordance with Section 6.15(a) hereof, (iii) to discharge the consolidated tax liabilities of Holdings and its Subsidiaries and (iv) so long as no Default or Event of Default shall have occurred and be continuing or shall be caused thereby, to allow Holdings to repurchase shares of, or options to purchase shares of, Capital Stock of Holdings from employees, officers or directors of Holdings, Company or any Subsidiaries thereof in any aggregate amount not to exceed $1,000,000 in any calendar year or $5,000,000 in the aggregate since the Closing Date;

(d) (i) Company may make Restricted Payments to Holdings in an aggregate amount not to exceed the Restricted Payment Amount (measured on the date of such Restricted Payment); provided that, notwithstanding the foregoing, in any four Fiscal Quarter period, the Company may make Restricted Payments to Holdings in an amount not to exceed the Periodic Dividend Amount; provided further, that, in any case, any Restricted Payment under this Section 6.5(d)(i) may only be made so long as (w) no Default or Event of Default has occurred or is continuing or shall be caused thereby after giving effect to such Restricted Payment, (x) after giving effect to such Restricted Payment, Holdings and its Subsidiaries shall have satisfied the RP Conditions, (y) to the extent Consolidated Adjusted EBITDA for the Test Period most recently ended prior to such Restricted Payment is less than or equal to $40,000,000, after giving effect to such Restricted Payment, the total amount of Restricted Payments made pursuant to this Section 6.5(d)(i) during the Fiscal Quarter in which the subject Restricted Payment is to be paid and the three Fiscal Quarters most recently ended does not exceed any applicable Maximum Restricted Payment Amount, and (z) a Section 6.5(d) Certificate has been delivered; and (ii) Holdings may make Restricted Payments in an amount equal to the actual amount of Restricted Payments made by Company to Holdings pursuant to Section 6.5(d)(i) that have not previously been distributed by Holdings, so long as no Default or Event of Default shall have occurred and be continuing or shall be caused thereby; provided, however, that notwithstanding anything to the contrary contained in this Section 6.5(d), this Section 6.5(d)(ii) shall not prohibit the payment of any dividend within 60 days after the date of declaration of such dividend if such dividend was permitted under this Section 6.5(d)(ii) on the date of declaration;

(e) (i) so long as no Default or Event of Default, in each case, in respect of Sections 8.1(a), 8.1(f) or 8.1(g) shall have occurred and be continuing or shall be caused thereby, Holdings may make Restricted Payments to Sponsor to the extent of Restricted Payments received by Holdings from Company pursuant to Sections 6.5(c)(ii) and (ii) so long as no Default or Event of Default shall have occurred and be continuing or shall be caused thereby, Holdings

may make Restricted Payments (x) as described in Section 6.5(c)(iv) and (y) in respect of Indebtedness permitted by Section 6.1(m) and in connection with the redemption or replacement of any preferred Capital Stock of Holdings described in Section 6.1(m);

(f) additional Restricted Payments in an aggregate amount not to exceed at any time outstanding $10,000,000 (minus any Investments made pursuant to Section 6.7(l)), if no Default or Event of Default has occurred or is continuing or would result therefrom; provided that any Restricted Payment made pursuant this Section 6.5(f) may not subsequently be characterized as a Restricted Payment made pursuant to any other provision of this Agreement; and

(g) if no Default or Event of Default has occurred or is continuing or would result therefrom, additional Restricted Payments in an aggregate amount not to exceed $25,000,000, which Restricted Payments are funded exclusively by Holdings Equity Proceeds that have not been applied to any other purpose; provided that any Restricted Payment made pursuant this Section 6.5(g) may not subsequently be characterized as a Restricted Payment made pursuant to any other provision of this Agreement.

Restrictions on Subsidiary Distributions. Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction of any kind on the ability of any Subsidiary of Company to (a) pay dividends or make any other distributions on any of such Subsidiary's Capital Stock owned by Company or by any other Subsidiary of Company, (b) repay or prepay any Indebtedness owed by such Subsidiary to Company or to any other Subsidiary of Company, (c) make loans or advances to Company or to any other Subsidiary of Company, or (d) transfer any of its property or assets to Company or to any other Subsidiary of Company other than restrictions (i) existing under this Agreement or the Revolving Credit Documents (as in effect on the Closing Date), (ii) in agreements evidencing Indebtedness permitted by Sections 6.1(g) and 6.1(l) that impose restrictions on the property so acquired, (iii) by reason of customary provisions restricting assignments, subletting or other transfers contained in leases, licenses, Joint Venture agreements and similar agreements entered into in the ordinary course of business, (iv) restrictions in agreements evidencing Indebtedness secured by Liens permitted by Section 6.2(m) that impose restrictions on the property securing such Indebtedness, (v) customary restrictions on assets that are the subject of an Asset Sale permitted by Section 6.9 or a Capital Lease permitted by Section 6.1(n) and (vi) in agreements evidencing Indebtedness permitted by Section 6.1(h) or 6.1(k), in each case, so long as such restrictions are not more restrictive, taken as a whole, than the restrictions set forth in this Agreement.

Investments. Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, make or own any Investment in any Person, including without limitation any Joint Venture, except:

(a) Investments in Cash and Cash Equivalents;

(b) Investments by Holdings in Company;

(c) Investments made by Company or any of its Subsidiaries in Subsidiary Guarantors which are wholly-owned Subsidiaries of Company;

(d) Investments received by Company or any of its Subsidiaries in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with, customers or suppliers of such Person, in each case in the ordinary course of business;

(e) accounts receivable arising, and trade credit granted, in the ordinary course of business of Company and its Subsidiaries, and any Securities received by Company or any of its Subsidiaries in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss, and any prepayments and other credits to suppliers made in the ordinary course of business;

(f) intercompany loans to the extent permitted under Section 6.1(b);

(g) Consolidated Capital Expenditures by Company or any of its Subsidiaries permitted by Section 6.8(b) of the Revolving Credit Facility;

(h) loans and advances by Company or any of its Subsidiaries to employees of Company and its Subsidiaries made in the ordinary course of business in an aggregate principal amount not to exceed $2,000,000 at any time outstanding;

(i) Investments by Company or any of its Subsidiaries made in connection with Permitted Acquisitions permitted pursuant to Section 6.9(d);

(j) Investments by Company or any of its Subsidiaries constituting non-Cash consideration received by Company and its Subsidiaries in connection with permitted Asset Sales pursuant to subsection 6.9(c);

(k) Company and its Subsidiaries may continue to own the Investments owned by them as of the Closing Date and described in Schedule 6.7;

(l) other Investments by Company or any of its Subsidiaries in an aggregate amount not to exceed at any time outstanding $10,000,000 (minus any Restricted Payments

made pursuant to Section 6.5(f)), if no Default or Event of Default has occurred or is continuing or would result therefrom; and

(m) additional Investments by Company or any of its Subsidiaries in an aggregate amount not to exceed the Restricted Payment Amount so long as (i) no Default or Event of Default has occurred or is continuing or shall be caused thereby after giving effect to such Investment and (ii) after giving effect to such Investment, the Company and its Subsidiaries shall have satisfied the Investment Conditions.

Notwithstanding the foregoing, in no event shall any Credit Party make any Investment which results in or facilitates in any manner any Restricted Payment not otherwise permitted under the terms of Section 6.5.

Calculations.

(a) [RESERVED]

(b) [RESERVED]

(c) Certain Calculations.

(i) With respect to any period during which a Permitted Acquisition or an Asset Sale has occurred (each, a"**Subject Transaction**"), for purposes of determining the Leverage Ratio calculation in Section 6.1(k), Consolidated Adjusted EBITDA and the components of Consolidated Fixed Charges, as applicable, shall be calculated with respect to such period on a pro forma basis (including pro forma adjustments arising out of events which are directly attributable to a specific transaction, are factually supportable and are expected to have a continuing impact, in each case determined on a basis consistent with Article 11 of Regulation S-X promulgated under the Securities Act and as interpreted by the staff of the Securities and Exchange Commission, which would include cost savings resulting from head count reduction, closure of Facilities and similar restructuring charges, which pro forma adjustments shall be certified by the chief financial officer of Company) using the historical audited financial statements of any business so acquired or to be acquired or sold or to be sold and the consolidated financial statements of Holdings and its Subsidiaries which shall be reformulated as if such Subject Transaction, and any Indebtedness incurred or repaid in connection therewith, had been consummated or incurred or repaid at the beginning of such period.

(ii) With respect to any period commencing prior to the Closing Date, Consolidated Adjusted EBITDA shall be calculated with respect to the portion of such period prior to the Closing Date based on the historical Consolidated Adjusted EBITDA of the Company during such time, Consolidated Capital Expenditures shall be calculated with respect to the portion of such period prior to the Closing Date based on the historical Consolidated Capital Expenditures of the Company during such time, and the other components of Consolidated Fixed Charges (other than Consolidated Interest Expense) shall be calculated with respect to the portion of such period prior to the Closing Date on a pro forma basis as if the Closing Date occurred on the first day of such period.

(iii) With respect to any period commencing prior to the Closing Date, Consolidated Interest Expense shall be calculated with respect to the portion of such period prior to the Closing Date on a pro forma basis as if the Closing Date occurred on the first day of such period (and assuming that the Indebtedness incurred on the Closing Date was incurred on the first day of such period and, such Indebtedness bears interest during the portion of such period prior to the Closing Date at the weighted average of the interest rates applicable to outstanding Indebtedness during the portion of such period on and after the Closing Date and that no Indebtedness was repaid during the portion of such period prior to the Closing Date).

Fundamental Changes; Asset Dispositions; Acquisitions. Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, enter into any transaction of merger or consolidation, or liquidate, wind-up or dissolve itself (or suffer any liquidation or dissolution), or convey, sell, lease or sub-lease (as lessor or sublessor), exchange, transfer or otherwise dispose of, in one transaction or a series of transactions, all or any part of its business, assets or property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible, whether now owned or hereafter acquired, or acquire by purchase or otherwise the business, or all or substantially all of the property or fixed assets of, or stock or other evidence of beneficial ownership of, any Person or any division or line of business or other business unit of any Person, except:

(a) any Subsidiary of Holdings may be merged with or into Company or with or into any wholly-owned Guarantor Subsidiary of Company, or be liquidated, wound up or dissolved, or all or any part of its business, property or assets may be conveyed, sold, leased, transferred or otherwise disposed of, in one transaction or a series of transactions, to Company or any wholly-owned Guarantor Subsidiary of Company; provided, in the case of such a merger, Company or such wholly-owned Guarantor Subsidiary of Company, as applicable shall be the continuing or surviving Person;

(b) sales or other dispositions of assets that do not constitute Asset Sales;

(c) Asset Sales, the proceeds of which (valued at the principal amount thereof in the case of non-Cash proceeds consisting of notes or other debt Securities and valued at fair market value in the case of other non-Cash proceeds) (i) do not exceed $5,000,000 in the aggregate in any calendar year and (ii) when aggregated with the proceeds of all other Asset Sales, do not exceed $15,000,000 in the aggregate from the Closing Date to the date of determination; provided (1) the consideration received for such assets shall be in an amount at least equal to the fair market value thereof (and in respect of a transaction of greater than $2,500,000, as determined in good faith by the board of directors of Company (or similar governing body)), (2) no less than 80% thereof shall be paid in Cash, and (3) the Net Asset Sale Proceeds thereof shall be applied as required by Section 2.13(a);

(d) Permitted Acquisitions, the consideration for which constitutes either (i) common Capital Stock of Holdings or (ii) (x) no more than $20,000,000 in the aggregate in any calendar year unless (and subject to clause (y) below) before and after giving effect to any such Permitted Acquisitions the Fixed Charge Coverage Ratio is at least 1.0 to 1.0 for the four Fiscal Quarter period most recently ended, calculated to give effect to such Permitted Acquisition in accordance with Section 6.8(c) as if such Permitted Acquisition occurred on the first day of such four Fiscal Quarter period, as demonstrated in a Fixed Charge Coverage Compliance Certificate delivered to the Administrative Agent prior to such Permitted Acquisition, and (y) no more than $60,000,000 in the aggregate from the Closing Date;

(e) Investments made in accordance with Section 6.7; and

(f) sale and leaseback transactions permitted pursuant to Section 6.3.

Disposal of Subsidiary Interests. Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to (a) directly or indirectly issue, sell, assign, pledge or otherwise encumber or dispose of any Capital Stock of any of its Subsidiaries, except to qualify directors if required by applicable law or (b) permit any of its Subsidiaries directly or indirectly to issue, sell, assign, pledge or otherwise encumber or dispose of any Capital Stock of any of its Subsidiaries, except (i) Company may issue Capital Stock to Holdings, (ii) Subsidiaries may issue Capital Stock to Company or to a Guarantor Subsidiary of Company (subject to the restrictions on such disposition otherwise imposed under Section 6.9) or to qualify directors if required by applicable law and (iii) Company or any Subsidiary may sell or otherwise dispose of the Capital Stock of its Subsidiaries in an Asset Sale permitted by Section 6.9.

Fiscal Year. Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to, change its Fiscal Year-end from December 31;provided, that the Fiscal Year-end of Holdings and its Subsidiaries may be changed to the end of any Fiscal Quarter with the prior written consent of, and following receipt of any information requested by,

Administrative Agent (including, without limitation, reconciliation statements for the immediately preceding three years described in Section 5.1(e)).

Transactions with Shareholders and Affiliates. Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service or the making of any loan) with any holder of 10% or more of any class of Capital Stock of Holdings or any of its Subsidiaries or with any Affiliate of Holdings or of any such holder, on terms that are less favorable to Holdings or that Subsidiary, as the case may be, than those that might be obtained at the time from a Person who is not such a holder or Affiliate; provided, the foregoing restriction shall not apply to (a) any transaction expressly permitted under this Agreement; (b) reasonable and customary fees paid to, and customary indemnification of, members of the board of directors (or similar governing body) of Holdings and its Subsidiaries; (c) compensation arrangements for officers and other employees of Holdings and its Subsidiaries entered into in the ordinary course of business; (d) transactions described in Schedule 6.12; and (e) any transaction between Credit Parties.

Conduct of Business. From and after the Closing Date, each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to, engage in any business other than (i) the businesses engaged in by Company on the Closing Date and similar or related businesses and (ii) such other lines of business as may be consented to by Requisite Lenders.

Permitted Activities of Holdings. Holdings shall not (a) incur, directly or indirectly, any Indebtedness other than the Indebtedness (i) under the Credit Documents, (ii) under the Revolving Credit Documents and (iii) permitted by Section 6.1(m); (b) create or suffer to exist any Lien upon any property or assets now owned or hereafter acquired by it other than the Liens created under the Collateral Documents to which it is a party; (c) engage in any business or activity or own any assets other than (i) holding 100% of the Capital Stock of Company; (ii) performing its obligations and activities incidental thereto under the Credit Documents, and to the extent not inconsistent therewith, the Revolving Credit Documents; (iii) making Restricted Payments to the extent permitted by Section 6.5 of this Agreement and Section 6.5 of the Revolving Credit Facility; (iv) making Investments to the extent permitted by Section 6.7 of this Agreement and Section 6.7 of the Revolving Credit Facility; (v) issuances of its Capital Stock; (vi) conducting activities arising by virtue of its status as a public company, including without limitation, compliance with its reporting obligations and other requirements applicable to public companies; and (vii) retaining Cash in a deposit account subject to a Blocked Account Agreement in the amount of any Restricted Payments received from the Company pursuant to Section 6.5(d)(i); (d) consolidate with or merge with or into, or convey, transfer or lease all or substantially all its assets to, any Person; (e) sell or otherwise dispose of any Capital Stock of any of its Subsidiaries; (f) create or acquire any Subsidiary or make or own any Investment in any Person other than Company; or (g) fail to hold itself out to the public as a legal entity separate and distinct from all other Persons.

Amendments or Waivers of Certain Agreements.

(a) Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to, terminate or agree to any amendment, restatement, supplement or other modification to, or waiver of, any of its rights under any Revolving Credit Document, any Organizational Document or the Management Services Agreement, or make any payment consistent with an amendment thereof or change thereto (which amendment or other modification, in the case of (i) an Organizational Document or any Revolving Credit Document, is adverse in any material respect to the rights or interests of the Lenders (provided that with respect to any termination, amendment, restatement, supplement or other modification to, or waiver of any Revolving Loan Document, none of the following amendments shall be deemed adverse for purposes of this clause (i): (A) any waiver of any default or event of default or any other waiver or amendment permitting or increasing (or having the effect of permitting or increasing) borrowing availability under the Borrowing Base (without increasing the Revolving Loan Commitments (as defined in the Revolving Credit Facility)), (B) payment of customary fees in connection with any waiver or amendment, or (C) any amendment implementing incremental or additional loans and/or commitments under the Revolving Loan Documents to the extent the Indebtedness in respect thereof is permitted under Section 6.1) and (ii) the Management Services Agreement, involves the imposition of additional fees or any increase in fees payable thereunder (other than as set forth in this Section 6.15) or is adverse in any respect to the rights or interests of the Lenders), without in each case obtaining the prior written consent of Requisite Lenders to such amendment, restatement, supplement or other modification or waiver. Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to, amend or otherwise change the terms of any Indebtedness permitted to be incurred under Section 6.1 which is subordinated to the Obligations, or make any payment consistent with an amendment thereof or change thereto, if the effect of such amendment or change is to increase the interest rate on or fees in respect of such Indebtedness, change (to earlier dates) any dates upon which payments of principal or interest are due thereon, change any event of default or condition to an event of default with respect thereto (other than to eliminate any such event of default or increase any grace period related thereto), change the redemption, prepayment or defeasance provisions thereof, change the subordination provisions thereof (or of any guaranty thereof), or change any collateral therefor (other than to release such collateral), or if the effect of such amendment or change, together with all other amendments or changes made, is to increase materially the obligations of the obligor thereunder or to confer any additional rights on the holders of such Indebtedness (or a trustee or other representative on their behalf) which would be adverse to Holdings or Company, any of their Subsidiaries, or Lenders. Notwithstanding the foregoing, this Section 6.15 shall not apply to any amendment to the Management Services Agreement, or the termination thereof, executed or made in connection with a Qualifying IPO; provided, that the payments made in connection therewith shall not exceed the Qualifying IPO Payment.

Limitation on Payments Relating to Other Debt(a) . Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries through any manner or means or through any other Person to, directly or indirectly, declare, order, make or offer to make, any prepayment, repurchase or redemption of, or otherwise defease, the Indebtedness permitted to be incurred under Section 6.1(k) (such Indebtedness, "**Other Debt**"), or segregate funds for any such prepayment, repurchase, redemption or defeasance, or enter into any derivative or other transaction with any financial institution, commodities or stock exchange or clearinghouse (a

"**Derivatives Counterparty**") obligating Holdings, the Company or any Subsidiary to make payments to such Derivatives Counterparty as a result of any change in market value of Other Debt, other than (a) any prepayment, repurchase or redemption of Other Debt pursuant to a Permitted Refinancing thereof and (b) prepayments, repurchases or redemptions of Other Debt in an aggregate amount not to exceed the Restricted Payment Amount so long as (i) no Default or Event of Default has occurred or is continuing or shall be caused thereby after giving effect to such payment and (ii) after giving effect to such payment, the Company and its Subsidiaries shall have satisfied the Investment Conditions. Notwithstanding anything to the contrary contained in this Agreement, the Credit Parties are permitted to redeem the Senior Notes pursuant to the Qualifying Senior Notes Redemption. Notwithstanding anything to the contrary contained in this Agreement, Holdings is permitted to prepay, repurchase or redeem Other Debt utilizing Holdings Equity Proceeds that have not been applied to any other purpose, if no Default or Event of Default has occurred or is continuing or would result therefrom; provided that any prepayment, repurchase or redemption or Other Debt pursuant to this sentence may not subsequently be characterized as having been made pursuant to any other provision of this Agreement.

SECTION 7. GUARANTY

Guaranty of the Obligations. Subject to the provisions of Section 7.2, Guarantors jointly and severally hereby irrevocably and unconditionally guaranty to the Beneficiaries the due and punctual payment in full of all Obligations when the same shall become due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. § 362(a)) (collectively, the "**Guaranteed Obligations**").

Contribution by Guarantors. All Guarantors desire to allocate among themselves (collectively, the"**Contributing Guarantors**"), in a fair and equitable manner, their obligations arising under this Guaranty. Accordingly, in the event any payment or distribution is made on any date by a Guarantor (a "**Funding Guarantor**") under this Guaranty such that its Aggregate Payments exceeds its Fair Share as of such date, such Funding Guarantor shall be entitled to a contribution from each of the other Contributing Guarantors in an amount sufficient to cause each Contributing Guarantor's Aggregate Payments to equal its Fair Share as of such date. "**Fair Share**" means,

with respect to a Contributing Guarantor as of any date of determination, an amount equal to (a) the ratio of (i) the Fair Share Contribution Amount with respect to such Contributing Guarantor to (ii) the aggregate of the Fair Share Contribution Amounts with respect to all Contributing Guarantors multiplied by (b) the aggregate amount paid or distributed on or before such date by all Funding Guarantors under this Guaranty in respect of the obligations Guaranteed. "**Fair Share Contribution Amount**" means, with respect to a Contributing Guarantor as of any date of determination, the maximum aggregate amount of the obligations of such Contributing Guarantor under this Guaranty that would not render its obligations hereunder or thereunder subject to avoidance as a fraudulent transfer or conveyance under Section 548 of Title 11 of the United States Code or any comparable applicable provisions

of state law; provided, solely for purposes of calculating the "**Fair Share Contribution Amount**" with respect to any Contributing Guarantor for purposes of this Section 7.2, any assets or liabilities of such Contributing Guarantor arising by virtue of any rights to subrogation, reimbursement or indemnification or any rights to or obligations of contribution hereunder shall not be considered as assets or liabilities of such Contributing Guarantor. "**Aggregate Payments**" means, with respect to a Contributing Guarantor as of any date of determination, an amount equal to (1) the aggregate amount of all payments and distributions made on or before such date by such Contributing Guarantor in respect of this Guaranty (including, without limitation, in respect of this Section 7.2), minus (2) the aggregate amount of all payments received on or before such date by such Contributing Guarantor from the other Contributing Guarantors as contributions under this Section 7.2. The amounts payable as contributions hereunder shall be determined as of the date on which the related payment or distribution is made by the applicable Funding Guarantor. The allocation among Contributing Guarantors of their obligations as set forth in this Section 7.2 shall not be construed in any way to limit the liability of any Contributing Guarantor hereunder. Each Guarantor is a third party beneficiary to the contribution agreement set forth in this Section 7.2.

Payment by Guarantors. Subject to Section 7.2, Guarantors hereby jointly and severally agree, in furtherance of the foregoing and not in limitation of any other right which any Beneficiary may have at law or in equity against any Guarantor by virtue hereof, that upon the failure of Company to pay any of the Guaranteed Obligations when and as the same shall become due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. § 362(a)), Guarantors will upon demand pay, or cause to be paid, in Cash, to Administrative Agent for the ratable benefit of Beneficiaries, an amount equal to the sum of the unpaid principal amount of all Guaranteed Obligations then due as aforesaid, accrued and unpaid interest on such Guaranteed Obligations (including interest which, but for Company's becoming the subject of a case under the Bankruptcy Code, would have accrued on such Guaranteed Obligations, whether or not a claim is allowed against Company for such interest in the related bankruptcy case) and all other Guaranteed Obligations then owed to Beneficiaries as aforesaid.

Liability of Guarantors Absolute. Each Guarantor agrees that its obligations hereunder are irrevocable, absolute, independent and unconditional and shall not be affected by any circumstance which constitutes a legal or equitable discharge of a guarantor or surety other than payment in full of the Guaranteed Obligations. In furtherance of the foregoing and without limiting the generality thereof, each Guarantor agrees as follows:

(a) this Guaranty is a guaranty of payment when due and not of collectability. This Guaranty is a primary obligation of each Guarantor and not merely a contract of surety;

(b) Administrative Agent may enforce this Guaranty upon the occurrence and during the continuance of an Event of Default notwithstanding the existence of any dispute

between Company and any Beneficiary with respect to the existence and continuance of such Event of Default;

(c) the obligations of each Guarantor hereunder are independent of the obligations of Company and the obligations of any other guarantor (including any other Guarantor) of the obligations of Company, and a separate action or actions may be brought and prosecuted against such Guarantor whether or not any action is brought against Company or any of such other guarantors and whether or not Company is joined in any such action or actions;

(d) payment by any Guarantor of a portion, but not all, of the Guaranteed Obligations shall in no way limit, affect, modify or abridge any Guarantor's liability for any portion of the Guaranteed Obligations which has not been paid. Without limiting the generality of the foregoing, if Administrative Agent is awarded a judgment in any suit brought to enforce any Guarantor's covenant to pay a portion of the Guaranteed Obligations, such judgment shall not be deemed to release such Guarantor from its covenant to pay the portion of the Guaranteed Obligations that is not the subject of such suit, and such judgment shall not, except to the extent satisfied by such Guarantor, limit, affect, modify or abridge any other Guarantor's liability hereunder in respect of the Guaranteed Obligations;

(e) any Beneficiary, upon such terms as it deems appropriate, without notice or demand and without affecting the validity or enforceability hereof or giving rise to any reduction, limitation, impairment, discharge or termination of any Guarantor's liability hereunder, from time to time may (i) renew, extend, accelerate, increase the rate of interest on, or otherwise change the time, place, manner or terms of payment of the Guaranteed Obligations; (ii) settle, compromise, release or discharge, or accept or refuse any offer of performance with respect to, or substitutions for, the Guaranteed Obligations or any agreement relating thereto and/or subordinate the payment of the same to the payment of any other obligations; (iii) request and accept other guaranties of the Guaranteed Obligations and take and hold security for the payment hereof or the Guaranteed Obligations; (iv) release, surrender, exchange, substitute, compromise, settle, rescind, waive, alter, subordinate or modify, with or without consideration, any security for payment of the Guaranteed Obligations, any other guaranties of the Guaranteed Obligations, or any other obligation of any Person (including any other Guarantor) with respect to the Guaranteed Obligations; (v) enforce and apply any security now or hereafter held by or for the benefit of such Beneficiary in respect hereof or the Guaranteed Obligations and direct the order or manner of sale thereof, or exercise any other right or remedy that such Beneficiary may have against any such security, in each case as such Beneficiary in its discretion may determine consistent herewith and any applicable security agreement, including foreclosure on any such security pursuant to one or more judicial or nonjudicial sales, whether or not every aspect of any such sale is commercially reasonable, and even though such action operates to impair or extinguish any right of reimbursement or subrogation or other right or remedy of any Guarantor against Company or any security for the Guaranteed Obligations; and (vi) exercise any other rights available to it under the Credit Documents; and

(f) this Guaranty and the obligations of Guarantors hereunder shall be valid and enforceable and shall not be subject to any reduction, limitation, impairment, discharge or termination for any reason (other than payment in full of the Guaranteed Obligations), including the occurrence of any of the following, whether or not any Guarantor shall have had notice or knowledge of any of them: (i) any failure or omission to assert or enforce an agreement or election not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy (whether arising under the Credit Documents, at law, in equity or otherwise) with respect to the Guaranteed Obligations or any agreement relating thereto, or with respect to any other guaranty of or security for the payment of the Guaranteed Obligations; (ii) any rescission, waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions (including provisions relating to events of default) hereof, any of the other Credit Documents or any agreement or instrument executed pursuant thereto, or of any other guaranty or security for the Guaranteed Obligations, in each case whether or not in accordance with the terms hereof or such Credit Document or any agreement relating to such other guaranty or security; (iii) the Guaranteed Obligations, or any agreement relating thereto, at any time being found to be illegal, invalid or unenforceable in any respect; (iv) the application of payments received from any source (other than payments received pursuant to the other Credit Documents or from the proceeds of any security

for the Guaranteed Obligations, except to the extent such security also serves as collateral for indebtedness other than the Guaranteed Obligations) to the payment of indebtedness other than the Guaranteed Obligations, even though any Beneficiary might have elected to apply such payment to any part or all of the Guaranteed Obligations; (v) any Beneficiary's consent to the change, reorganization or termination of the corporate structure or existence of Holdings or any of its Subsidiaries and to any corresponding restructuring of the Guaranteed Obligations; (vi) any failure to perfect or continue perfection of a security interest in any collateral which secures any of the Guaranteed Obligations; (vii) any defenses, set-offs or counterclaims which Company may allege or assert against any Beneficiary in respect of the Guaranteed Obligations, including failure of consideration, breach of warranty, payment, statute of frauds, statute of limitations, accord and satisfaction and usury; and (viii) any other act or thing or omission, or delay to do any other act or thing, which may or might in any manner or to any extent vary the risk of any Guarantor as an obligor in respect of the Guaranteed Obligations.

7.5 Waivers by Guarantors. Each Guarantor hereby waives, for the benefit of Beneficiaries: (a) any right to require any Beneficiary, as a condition of payment or performance by such Guarantor, to (i) proceed against Company, any other guarantor (including any other Guarantor) of the Guaranteed Obligations or any other Person, (ii) proceed against or exhaust any security held from Company, any such other guarantor or any other Person, (iii) proceed against or have resort to any balance of any deposit account or credit on the books of any Beneficiary in favor of Company or any other Person, or (iv) pursue any other remedy in the power of any Beneficiary whatsoever; (b) any defense arising by reason of the incapacity, lack of authority or any disability or other defense of Company or any other Guarantor including any defense based on or arising out of the lack of validity or the unenforceability of the Guaranteed Obligations or any agreement or instrument relating thereto or by reason of the cessation of the liability of Company or any other Guarantor from any cause other than payment in full of the Guaranteed Obligations; (c) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in other respects more

burdensome than that of the principal; (d) any defense based upon any Beneficiary's errors or omissions in the administration of the Guaranteed Obligations, except behavior which amounts to bad faith; (e) (i) any principles or provisions of law, statutory or otherwise, which are or might be in conflict with the terms hereof and any legal or equitable discharge of such Guarantor's obligations hereunder, (ii) the benefit of any statute of limitations affecting such Guarantor's liability hereunder or the enforcement hereof, (iii) any rights to set-offs, recoupments and counterclaims, and (iv) promptness, diligence and any requirement that any Beneficiary protect, secure, perfect or insure any security interest or lien or any property subject thereto; (f) notices, demands, presentments, protests, notices of protest, notices of dishonor and notices of any action or inaction, including acceptance hereof, notices of default hereunder or any agreement or instrument related thereto, notices of any renewal, extension or modification of the Guaranteed Obligations or any agreement related thereto, notices of any extension of credit to Company and notices of any of the matters referred to in Section 7.4 and any right to consent to any thereof; and (g) any defenses or benefits that may be derived from or afforded by law which limit the liability of or exonerate guarantors or sureties, or which may conflict with the terms hereof.

Guarantors' Rights of Subrogation, Contribution, etc. Until the Guaranteed Obligations shall have been indefeasibly paid in full and the Term Loan Commitments shall have terminated, each Guarantor hereby waives and agrees not to assert any claim, right or remedy, direct or indirect, that such Guarantor now has or may hereafter have against Company or any other Guarantor or any of its assets in connection with this Guaranty or the performance by such Guarantor of its obligations hereunder, in each case whether such claim, right or remedy arises in equity, under contract, by statute, under common law or otherwise and including without limitation (a) any right of subrogation, reimbursement or indemnification that such Guarantor now has or may hereafter have against Company with respect to the Guaranteed Obligations, (b) any right to enforce, or to participate in, any claim, right or remedy that any Beneficiary now has or may hereafter have against Company, and (c) any benefit of, and any right to participate in, any collateral or security now or hereafter held by any Beneficiary. In addition, until the Guaranteed Obligations shall have been indefeasibly paid in full and the Term Loan Commitments shall have terminated, each Guarantor shall withhold exercise of any right of contribution such Guarantor may have against any other guarantor (including any other Guarantor) of the Guaranteed Obligations, including, without limitation, any such right of contribution as contemplated by Section 7.2. Each Guarantor further agrees that, to the extent the waiver or agreement to withhold the exercise of its rights of subrogation, reimbursement, indemnification and contribution as set forth herein is found by a court of competent jurisdiction to be void or voidable for any reason, any rights of subrogation, reimbursement or indemnification such Guarantor may have against Company or against any collateral or security, and any rights of contribution such Guarantor may have against any such other guarantor, shall be junior and subordinate to any rights any Beneficiary may have against Company, to all right, title and interest any Beneficiary may have in any such collateral or security, and to any right any Beneficiary may have against such other guarantor. If any amount shall be paid to any Guarantor on account of any such subrogation, reimbursement, indemnification or contribution rights at any time when all Guaranteed Obligations shall not have been finally and indefeasibly paid in full, such amount shall be held in trust for Administrative Agent on behalf of Beneficiaries and shall forthwith be paid over to Administrative Agent for the benefit of

Beneficiaries to be credited and applied against the Guaranteed Obligations, whether matured or unmatured, in accordance with the terms hereof.

Subordination of Other Obligations. Any Indebtedness of Company or any Guarantor now or hereafter held by any Guarantor (the"**Obligee Guarantor**") is hereby subordinated in right of payment to the Guaranteed Obligations, and any such indebtedness collected or received by the Obligee Guarantor after an Event of Default has occurred and is continuing shall be held in trust for Administrative Agent on behalf of Beneficiaries and shall forthwith be paid over to Administrative Agent for the benefit of Beneficiaries to be credited and applied against the Guaranteed Obligations but without affecting, impairing or limiting in any manner the liability of the Obligee Guarantor under any other provision hereof.

Continuing Guaranty. This Guaranty is a continuing guaranty and shall remain in effect until all of the Guaranteed Obligations shall have been paid in full and the Term Loan Commitments shall have terminated. Each Guarantor hereby irrevocably waives any right to revoke this Guaranty as to future transactions giving rise to any Guaranteed Obligations.

Authority of Guarantors or Company. It is not necessary for any Beneficiary to inquire into the capacity or powers of any Guarantor or Company or the officers, directors or any agents acting or purporting to act on behalf of any of them.

Financial Condition of Company. Any Credit Extension may be made to Company or continued from time to time without notice to or authorization from any Guarantor regardless of the financial or other condition of Company at the time of any such grant or continuation, as the case may be. No Beneficiary shall have any obligation to disclose or discuss with any Guarantor its assessment, or any Guarantor's assessment, of the financial condition of Company. Each Guarantor has adequate means to obtain information from Company on a continuing basis concerning the financial condition of Company and its ability to perform its obligations under the Credit Documents, and each Guarantor assumes the responsibility for being and keeping informed of the financial condition of Company and of all circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations. Each Guarantor hereby waives and relinquishes any duty on the part of any Beneficiary to disclose any matter, fact or thing relating to the business, operations or conditions of Company now known or hereafter known by any Beneficiary.

Bankruptcy, etc. So long as any Guaranteed Obligations remain outstanding, no Guarantor shall, without the prior written consent of Administrative Agent acting pursuant to the instructions of Requisite Lenders, commence or join with any other Person in commencing any bankruptcy, reorganization or insolvency case or proceeding of or against Company or any other Guarantor. The obligations of Guarantors hereunder shall not be reduced, limited, impaired, discharged, deferred, suspended or terminated by any case or proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation or arrangement of Company or any other

Guarantor or by any defense which Company or any other Guarantor may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding.

(b) Each Guarantor acknowledges and agrees that any interest on any portion of the Guaranteed Obligations which accrues after the commencement of any case or proceeding referred to in clause (a) above (or, if interest on any portion of the Guaranteed Obligations ceases to accrue by operation of law by reason of the commencement of such case or proceeding, such interest as would have accrued on such portion of the Guaranteed Obligations if such case or proceeding had not been commenced) shall be included in the Guaranteed Obligations because it is the intention of Guarantors and Beneficiaries that the Guaranteed Obligations which are guaranteed by Guarantors pursuant hereto should be determined without regard to any rule of law or order which may relieve Company of any portion of such Guaranteed Obligations. Guarantors will permit any trustee in bankruptcy, receiver, debtor in possession, assignee for the benefit of creditors or similar person to pay Administrative Agent, or allow the claim of Administrative Agent in respect of, any such interest accruing after the date on which such case or proceeding is commenced.

(c) In the event that all or any portion of the Guaranteed Obligations are paid by Company, the obligations of Guarantors hereunder shall continue and remain in full force and effect or be reinstated, as the case may be, in the event that all or any part of such payment(s) are rescinded or recovered directly or indirectly from any Beneficiary as a preference, fraudulent transfer or otherwise, and any such payments which are so rescinded or recovered shall constitute Guaranteed Obligations for all purposes hereunder.

Discharge of Guaranty Upon Sale of Guarantor. If all of the Capital Stock of any Guarantor (other than Holdings) or any of its successors in interest hereunder shall be sold or otherwise disposed of (including by merger or consolidation) in accordance with the terms and conditions hereof, the Guaranty of such Guarantor or such successor in interest, as the case may be, hereunder shall automatically be discharged and released without any further action by any Beneficiary or any other Person effective as of the time of such Asset Sale.

SECTION 8. EVENTS OF DEFAULT

Events of Default. If any one or more of the following conditions or events shall occur:

(a) Failure to Make Payments When Due. Failure by Company to pay (i) when due any principal of any Loan, whether at stated maturity, by acceleration, by notice of voluntary prepayment, by mandatory prepayment or otherwise or (ii) any interest on any Loan or any fee or any other amount due hereunder within five (5) days after the date due; or

(b) Default in Other Agreements. (i) Failure of any Credit Party or any of their respective Subsidiaries to pay when due any principal of or interest on or any other amount payable in respect of one or more items of Indebtedness (other than Indebtedness referred to in Section 8.1(a)) in an individual principal amount of $5,000,000 or more or with an aggregate principal amount of $10,000,000 or more, in each case beyond the grace period, if any, provided therefor; or (ii) breach or default by any Credit Party with respect to any other term (other than Section 6.8(a) of the Revolving Credit Facility) of (1) one or more items of such Indebtedness or (2) any loan agreement, mortgage, indenture or other agreement relating to such item(s) of Indebtedness, or any other event or circumstance shall occur, in each case beyond the grace period, if any, provided therefor, if the effect of such breach or default or event or circumstance is to cause, or to permit the holder or holders of that Indebtedness (or a trustee on behalf of such holder or holders), to cause, that Indebtedness to become or be declared due and payable (or redeemable) prior to its stated maturity or the stated maturity of any underlying obligation, as the case may be, or to require an offer to purchase or redeem such Indebtedness be made (other than any due on sale provision with respect to any Indebtedness permitted to be repaid hereunder and which is so repaid in full); or

(c) Breach of Certain Covenants. Failure of any Credit Party to perform or comply with any term or condition contained in Sections 2.6, 2.14, 5.1(f), 5.1(g), 5.2(i), 5.14, 5.15 or 6; or

(d) Breach of Representations, etc. Any representation, warranty or certification made or deemed made by any Credit Party in any Credit Document or in any statement or certificate at any time given by any Credit Party or any of its Subsidiaries in writing pursuant hereto or thereto or in connection herewith or therewith shall be false in any material respect as of the date made or deemed made; or

(e) Other Defaults Under Credit Documents. Any Credit Party shall default in the performance of or compliance with any term contained herein or any of the other Credit Documents, other than any such term referred to in any other Section of this Section 8.1, and such default shall not have been remedied or waived within thirty (30) days after the earlier of (i) an officer of such Credit Party becoming aware of such default or (ii) receipt by Company of notice from Administrative Agent or any Lender of such default; or

(f) Involuntary Bankruptcy; Appointment of Receiver, etc.. (i) A court of competent jurisdiction shall enter a decree or order for relief in respect of Holdings or any of its Subsidiaries in an involuntary case under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect, which decree or order is not stayed; or any other similar relief shall be granted under any applicable federal or state law; or (ii) an involuntary case shall be commenced against Holdings or any of its Subsidiaries under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect; or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, liquidator, sequestrator, trustee, custodian or other officer having similar powers over Holdings or any of its Subsidiaries, or over all or a substantial part of its

property, shall have been entered; or there shall have occurred the involuntary appointment of an interim receiver, trustee or other custodian of Holdings or any of its Subsidiaries for all or a substantial part of its property; or a warrant of attachment, execution or similar process shall have been issued against any substantial part of the property of Holdings or any of its Subsidiaries, and any such event described in this clause (ii) shall continue for sixty (60) days without having been dismissed, bonded or discharged; or

(g) Voluntary Bankruptcy; Appointment of Receiver, etc.. (i) Holdings or any of its Subsidiaries shall have an order for relief entered with respect to it or shall commence a voluntary case under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect, or shall consent to the entry of an order for relief in an involuntary case, or to the conversion of an involuntary case to a voluntary case, under any such law, or shall consent to the appointment of or taking possession by a receiver, trustee or other custodian for all or a substantial part of its property; or Holdings or any of its Subsidiaries shall make any assignment for the benefit of creditors; or (ii) Holdings or any of its Subsidiaries shall be unable, or shall fail generally, or shall admit in writing its inability, to pay its debts as such debts become due; or the board of directors (or similar governing body) of Holdings or any of its Subsidiaries (or any committee thereof) shall adopt any resolution or otherwise authorize any action to approve any of the actions referred to in this Section 8.1(g) or in Section 8.1(f) above; or

(h) Judgments and Attachments. Any money judgment, writ or warrant of attachment or similar process involving (i) in any individual case an amount in excess of $5,000,000 or (ii) in the aggregate at any time an amount in excess of $10,000,000 (in either case to the extent not adequately covered by insurance as to

which a solvent and unaffiliated insurance company has acknowledged coverage) shall be entered or filed against Holdings or any of its Subsidiaries or any of their respective assets and shall remain undischarged, unvacated, unbonded or unstayed for a period of sixty (60) days (or in any event later than five (5) days prior to the date of any proposed sale thereunder); or

(i) Dissolution. Any order, judgment or decree shall be entered against any Credit Party decreeing the dissolution or split up of such Credit Party; or

(j) Employee Benefit Plans. (i) There shall occur one or more ERISA Events or (ii) there shall exists any fact or circumstance that results or reasonably could be expected to result in the imposition of a Lien or security interest with respect to any Employee Benefit Plan under Section 412(n) of the Internal Revenue Code or under ERISA, in either case involving or that might reasonably be expected to involve in any individual case an amount in excess of $5,000,000 or in the aggregate at any time an amount in excess of $10,000,000; or

(k) Change of Control. A Change of Control shall occur; or

(l) Guaranties, Collateral Documents and other Credit Documents. At any time after the execution and delivery thereof, (i) the Guaranty for any reason, other than the satisfaction in full of all Obligations or upon the release of such Guaranty with respect to a Subsidiary of the Company in connection with an Asset Sale permitted hereby, shall cease to be in full force and effect (other than in accordance with its terms) or shall be declared to be null and void or any Guarantor shall repudiate its obligations thereunder, (ii) this Agreement or any Collateral Document ceases to be in full force and effect (other than by reason of a release of Collateral in accordance with the terms hereof or thereof or the satisfaction in full of the Obligations in accordance with the terms hereof) or shall be declared null and void, or Collateral Agent shall not have or shall cease to have a valid and perfected Lien in any Collateral purported to be covered by the Collateral Documents with the priority required by the relevant Collateral Document, in each case for any reason other than the failure of Collateral Agent or any Secured Party to take any action within its control, or (iii) any Credit Party shall contest the validity or enforceability of any Credit Document in writing or deny in writing that it has any further liability, including with respect to future advances by Lenders, under any Credit Document to which it is a party;

THEN, (1) upon the occurrence of any Event of Default described in Section 8.1(f) or 8.1(g), automatically, and (2) upon the occurrence of any other Event of Default, upon notice to Company by Administrative Agent (which notice shall be given by Administrative Agent upon the request of the Requisite Lenders), (A) the Term Loan Commitments, if any, of each Lender having such Term Loan Commitments shall immediately terminate; (B) each of the following shall immediately become due and payable, in each case without presentment, demand, protest or other requirements of any kind, all of which are hereby expressly waived by each Credit Party: (I) the unpaid principal amount of and accrued interest on the Loans and (II) all other Obligations; and (C) Administrative Agent may cause Collateral Agent to enforce any and all Liens and security interests created pursuant to Collateral Documents.

SECTION 9. AGENTS

Appointment of Agents. Credit Suisse is hereby appointed Administrative Agent and Collateral Agent hereunder and under the other Credit Documents and each Lender hereby authorizes Administrative Agent and Collateral Agent to act as its agent in each such capacity in accordance with the terms hereof and the other Credit Documents. Credit Suisse is hereby appointed Syndication Agent hereunder, and each Lender hereby authorizes Syndication Agent to act as its agent in accordance with the terms hereof and the other Credit Documents. Credit Suisse is hereby appointed Documentation Agent hereunder, and each Lender hereby authorizes Documentation Agent to act as its agent in accordance with the terms hereof and the other Credit Documents. Each Agent hereby agrees to act upon the express conditions contained herein and the other Credit Documents, as applicable. The provisions of this Section 9 are solely for the benefit of Agents and Lenders and no Credit Party shall have any rights as a third party beneficiary of any of the provisions thereof. In performing its functions and duties hereunder, each Agent shall act solely as an agent of Lenders and does not assume and shall not be deemed to have assumed any obligation towards or relationship of agency or trust with or for Holdings or any of its Subsidiaries.

Powers and Duties. Each Lender irrevocably authorizes each Agent to take such action on such Lender's behalf and to exercise such powers, rights and remedies hereunder and under the other Credit Documents as are specifically delegated or granted to such Agent by the terms hereof and thereof, together with such powers, rights and remedies as are reasonably incidental thereto. Each Agent shall have only those duties and responsibilities that are expressly specified herein and the other Credit Documents. Each Lender irrevocably authorizes each of the Administrative Agent and the Collateral Agent to execute and deliver the Intercreditor Agreement and agrees to be bound by the provisions therein. Each Agent may perform any and all of their duties and exercise their rights and powers by or through any one or more sub-agents appointed by such Agent. Each Agent and any such sub-agent may perform any and all its duties and exercise its rights and powers through their respective Affiliates, and the respective directors, officers, employees, agents and advisors of such Agent and such Agent's Affiliates. The exculpatory provisions of the Credit Documents shall apply to any such sub-agent and to the Affiliates, directors, officers, employees, agents and advisors of such Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Agent. No Agent shall have, by reason hereof or any of the other Credit Documents, a fiduciary relationship in respect of any Lender; and nothing herein or any of the other Credit Documents, expressed or implied, is intended to or shall be so construed as to impose upon any Agent any obligations in respect hereof or any of the other Credit Documents except as expressly set forth herein or therein.

General Immunity.

(a) No Responsibility for Certain Matters. No Agent shall be responsible to any Lender for the execution, effectiveness, genuineness, validity, enforceability, collectability or sufficiency hereof or any other Credit Document or for any representations, warranties, recitals or statements made herein or therein or made in any written or oral statements or in any financial or other statements, instruments, reports or certificates or any other documents furnished or made by any Agent to Lenders or by or on behalf of any Credit Party to any Agent or any Lender in connection with the Credit Documents and the transactions contemplated thereby or for the financial condition or business affairs of any Credit Party or any other Person liable for the payment of any Obligations, nor shall any Agent be required to ascertain or inquire as to the performance or observance of any of the terms, conditions, provisions, covenants or agreements contained in any of the Credit Documents or as to the use of the proceeds of the Loans or as to the existence or possible existence of any Event of Default or Default or to make any disclosures with respect to the foregoing. No Agent shall be deemed to have knowledge of any Default or Event of Default unless and until written notice thereof is given to such Agent by the Borrower or a Lender. Anything contained herein to the contrary notwithstanding, Administrative Agent shall not have any liability arising from confirmations of the amount of outstanding Loans or the component amounts thereof.

(b) Exculpatory Provisions. No Agent nor any of its officers, partners, directors, employees or agents shall be liable to Lenders for any action taken or omitted by any Agent under or in connection with any of the Credit Documents except to the extent caused by

such Agent's gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction. Each Agent shall be entitled to refrain from any act or the taking of any action (including the failure to take an action) in connection herewith or any of the other Credit Documents or from the exercise of any power, discretion or authority vested in it hereunder or thereunder unless and until such Agent shall have received instructions in respect thereof from Requisite Lenders

(or such other Lenders as may be required to give such instructions under Section 10.5) and, upon receipt of such instructions from Requisite Lenders (or such other Lenders, as the case may be), such Agent shall be entitled to act or (where so instructed) refrain from acting, or to exercise such power, discretion or authority, in accordance with such instructions. Without prejudice to the generality of the foregoing, (i) each Agent shall be entitled to rely, and shall be fully protected in relying, upon any communication, instrument or document believed by it to be genuine and correct and to have been signed or sent by the proper Person or Persons, and shall be entitled to rely and shall be protected in relying on opinions and judgments of attorneys (who may be attorneys for Holdings and its Subsidiaries), accountants, experts and other professional advisors selected by it; and (ii) no Lender shall have any right of action whatsoever against any Agent as a result of such Agent acting or (where so instructed) refraining from acting hereunder or any of the other Credit Documents in accordance with the instructions of Requisite Lenders (or such other Lenders as may be required to give such instructions under Section 10.5). Each Agent also may rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person, and shall not incur any liability for relying thereon.

Agents Entitled to Act as Lender. The agency hereby created shall in no way impair or affect any of the rights and powers of, or impose any duties or obligations upon, any Agent in its individual capacity as a Lender hereunder. With respect to its participation in the Loans, each Agent shall have the same rights and powers hereunder as any other Lender and may exercise the same as if it were not performing the duties and functions delegated to it hereunder, and the term "Lender" shall, unless the context clearly otherwise indicates, include each Agent in its individual capacity. Any Agent and its Affiliates may accept deposits from, lend money to, own securities of, and generally engage in any kind of banking, trust, financial advisory or other business with Holdings or any of its Affiliates as if it were not performing the duties specified herein, and may accept fees and other consideration from Company for services in connection herewith and otherwise without having to account for the same to Lenders.

Lenders' Representations, Warranties and Acknowledgment.

(a) Each Lender represents and warrants that it has made its own independent investigation of the financial condition and affairs of Holdings and its Subsidiaries in connection with Credit Extensions hereunder and that it has made and shall continue to make its own appraisal of the creditworthiness of Holdings and its Subsidiaries. No Agent shall have any duty or responsibility, either initially or on a continuing basis, to make any such investigation or any such appraisal on behalf of Lenders or to provide any Lender with any credit or other information with respect thereto, whether coming into its possession before the making of the

Loans or at any time or times thereafter, and no Agent shall have any responsibility with respect to the accuracy of or the completeness of any information provided to Lenders.

(b) Each Lender, by delivering its signature page to this Agreement shall be deemed to have acknowledged receipt of, and consented to and approved, each Credit Document and each other document required to be approved by any Agent, Requisite Lenders or Lenders, as applicable on the Closing Date.

Right to Indemnity. Each Lender, in proportion to its Pro Rata Share, severally agrees to indemnify each Agent, to the extent that such Agent shall not have been reimbursed by any Credit Party, for and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses (including counsel fees and disbursements) or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against such Agent in exercising its powers, rights and remedies or performing its duties hereunder or under the other Credit Documents or otherwise in its capacity as such Agent in any way relating to or arising out of this Agreement or the other Credit Documents; provided, no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from such Agent's gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction. If any indemnity furnished to any Agent for any purpose shall, in the opinion of such Agent, be insufficient or become impaired, such Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished; provided, in no event shall this sentence require any Lender to indemnify any Agent against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement in excess of such Lender's Pro Rata Share thereof; and provided further, this sentence shall not be deemed to require any Lender to indemnify any Agent against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement described in the proviso in the immediately preceding sentence.

Successor Administrative Agent. Administrative Agent may resign at any time by giving thirty (30) days' prior written notice thereof to Lenders and Company. Upon any such notice of resignation, Requisite Lenders shall have the right, upon five (5) Business Days' notice to Company, to appoint a successor Administrative Agent. If no successor shall have been so appointed by the Requisite Lenders and shall have accepted such appointment within thirty (30) days after the resigning Administrative Agent gives notice of its resignation, then the resigning Administrative Agent may, on behalf of Agents and Lenders, appoint a successor Administrative Agent. Upon the acceptance of any appointment as Administrative Agent hereunder by a successor Administrative Agent, that successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent and the retiring Administrative Agent shall promptly (i) transfer to such successor Administrative Agent all sums, Securities and other items of Collateral held under the Collateral Documents, together with all records and other documents necessary or appropriate in connection with the performance of the duties of the successor Administrative Agent under the Credit Documents, and (ii) execute and deliver to such successor Administrative Agent such

amendments to financing statements, and take such other actions, as may be necessary or appropriate in connection with the assignment to such successor Administrative Agent of the security interests created under the Collateral Documents, whereupon such retiring Administrative Agent shall be discharged from its duties and obligations hereunder. After any retiring Administrative Agent's resignation hereunder as Administrative Agent, the provisions of this Section 9 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent hereunder.

Collateral Documents and Guaranty.

(a) Agents under Collateral Documents and Guaranty. Each Lender hereby further authorizes Administrative Agent or Collateral Agent, as applicable, on behalf of and for the benefit of Lenders, to be the agent for and representative of Lenders with respect to the Guaranty, the Collateral and the Collateral Documents. Subject to Section 10.5, without further written consent or authorization from Lenders, Administrative Agent or Collateral Agent, as applicable may execute any documents or instruments necessary to (i) release any Lien encumbering any item of Collateral that is the subject of a sale or other disposition of assets permitted hereby or to which Requisite Lenders (or such other Lenders as may be required to give such consent under Section 10.5) have otherwise consented or (ii) release any Guarantor from the Guaranty pursuant to Section 7.12 or with respect to which Requisite Lenders (or such other Lenders as may be required to give such consent under Section 10.5) have otherwise consented.

(b) Right to Realize on Collateral and Enforce Guaranty. Anything contained in any of the Credit Documents to the contrary notwithstanding, Company, Administrative Agent, Collateral Agent and each Lender hereby agree that (i) no Lender shall have any right individually to realize upon any of the Collateral or to enforce the Guaranty, it being understood and agreed that all powers, rights and remedies hereunder may be exercised solely by Administrative Agent, on behalf of Lenders in accordance with the terms hereof and all powers, rights and remedies under the Collateral Documents may be exercised solely by Collateral Agent, and (ii) in the event of a foreclosure by Collateral Agent on any of the Collateral pursuant to a public or private sale, Collateral Agent or any Lender may be the purchaser of any or all of such Collateral at any such sale and Collateral Agent, as agent for and representative of Secured Parties (but not any Lender or Lenders in its or their respective individual capacities unless Requisite Lenders shall otherwise agree in writing) shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations as a credit on account of the purchase price for any collateral payable by Collateral Agent at such sale.

SECTION 10. MISCELLANEOUS

Notices. Unless otherwise specifically provided herein, any notice or other communication herein required or permitted to be given to a Credit Party, Collateral Agent,

Administrative Agent, Syndication Agent or Documentation Agent, shall be sent to such Person's address as set forth on Appendix B or in the other relevant Credit Document, and in the case of any Lender, the address as indicated on Appendix B or otherwise indicated to Administrative Agent in writing. Each notice hereunder shall be in writing and may be personally served, telexed or sent by telefacsimile or United States certified or registered mail or courier service and shall be deemed to have been given when delivered in person or by courier service and signed for against receipt thereof, upon receipt of telefacsimile or telex, or three (3) Business Days after depositing it in the United States mail with postage prepaid and properly addressed; provided, no notice to any Agent shall be effective until received by such Agent. As agreed to among Holdings, the Borrower, the Administrative Agent and the applicable Lenders from time to time, notices and other communications may also be delivered by e-mail to the e-mail address of a representative of the applicable Person provided from time to time by such Person.

The Borrower hereby agrees, unless directed otherwise by the Administrative Agent or unless the electronic mail address referred to below has not been provided by the Administrative Agent to the Borrower, that it will, or will cause its Subsidiaries to, provide to the Administrative Agent all information, documents and other materials that it is obligated to furnish to the Administrative Agent pursuant to the Credit Documents or to the Lenders under Article 5, including all notices, requests, financial statements, financial and other reports, certificates and other information materials, but excluding any such communication that (i) relates to the payment of any principal or other amount due under this Agreement prior to the scheduled date thereof or (ii) provides notice of any Default or Event of Default under this Agreement or any other Credit Document (all such non-excluded communications being referred to herein collectively as "***Communications***"), by transmitting the Communications in an electronic/soft medium that is properly identified in a format acceptable to the Administrative Agent to an electronic mail address as directed by the Administrative Agent. In addition, the Borrower agrees, and agrees to cause its Subsidiaries, to continue to provide the Communications to the Administrative Agent or the Lenders, as the case may be, in the manner specified in the Credit Documents but only to the extent requested by the Administrative Agent.

The Borrower hereby acknowledges that (a) the Administrative Agent will make available to the Lenders materials and/or information provided by or on behalf of the Borrower hereunder (collectively, the "***Borrower Materials***") by posting the Borrower Materials on Intralinks or another similar electronic system (the "***Platform***") and (b) certain of the Lenders may be "public-side" Lenders (i.e., Lenders that do not wish to receive material non-public information with respect to the Borrower or its securities) (each, a "***Public Lender***"). The Borrower hereby agrees that (w) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Borrower shall be deemed to have authorized the Administrative Agent and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to the Borrower or its securities for purposes of United States federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute confidential information, they shall be treated as set forth in Section 10.17); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available

through a portion of the Platform designated as "Public Investor;" and (z) the Administrative Agent shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not marked as "Public Investor." Notwithstanding the foregoing, the following Borrower Materials shall be marked "PUBLIC", unless the Borrower notifies the Administrative Agent promptly that any such document contains material non-public information: (1) the Credit Documents and (2) notification of changes in the terms of the Credit Documents.

Each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable law, including United States Federal and state securities laws, to make reference to Communications that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to the Borrower or its securities for purposes of United States Federal or state securities laws.

THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE". NEITHER THE ADMINISTRATIVE AGENT NOR ANY OF ITS RELATED PARTIES WARRANTS THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS OR THE ADEQUACY OF THE PLATFORM AND EACH EXPRESSLY DISCLAIMS LIABILITY FOR ERRORS OR OMISSIONS IN THE COMMUNICATIONS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS IS MADE BY THE ADMINISTRATIVE AGENT OR ANY OF ITS RELATED PARTIES IN CONNECTION WITH THE COMMUNICATIONS OR THE PLATFORM. IN NO EVENT SHALL THE ADMINISTRATIVE AGENT OR ANY OF ITS RELATED PARTIES HAVE ANY LIABILITY TO ANY CREDIT PARTY, ANY LENDER OR ANY OTHER PERSON FOR DAMAGES OF ANY KIND, WHETHER OR NOT BASED ON STRICT LIABILITY AND INCLUDING DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF ANY CREDIT PARTY'S OR THE ADMINISTRATIVE AGENT'S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET, EXCEPT TO THE EXTENT THE LIABILITY OF ANY SUCH PERSON IS FOUND IN A FINAL RULING BY A COURT OF COMPETENT JURISDICTION TO HAVE RESULTED PRIMARILY FROM SUCH PERSON'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

The Administrative Agent agrees that the receipt of the Communications by the Administrative Agent at its e-mail address set forth above shall constitute effective delivery of the Communications to the Administrative Agent for purposes of the Credit Documents. Each Lender agrees that receipt of notice to it (as provided in the next sentence) specifying that the Communications have been posted to the Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Credit Documents. Each Lender agrees to notify the Administrative Agent in writing (including by electronic communication) from time to time of such Lender's e-mail address to which the foregoing notice may be sent by electronic transmission and that the foregoing notice may be sent to such e-mail address.

Expenses. Whether or not the transactions contemplated hereby shall be consummated, Borrower agrees to pay promptly (a) all the actual costs and expenses incurred by Arranger and Administrative Agent and Collateral Agent in connection with the preparation of the Credit Documents and any consents, amendments, waivers or other modifications thereto; (b) all the costs of furnishing all opinions by counsel for Borrower and the other Credit Parties; (c) the reasonable fees, expenses and disbursements of counsel to Arranger and Administrative Agent and Collateral Agent in connection with the negotiation, preparation, execution and administration of the Credit Documents and any consents, amendments, waivers or other modifications thereto and any other documents or matters requested by Borrower; (d) all the actual costs and expenses of creating and perfecting Liens in favor of Collateral Agent, for the benefit of Lenders pursuant hereto, including filing and recording fees, expenses and taxes, stamp or documentary taxes, search fees, title insurance premiums and reasonable fees, expenses and disbursements of counsel to each Agent and Arranger and of counsel providing any opinions that Arranger, any Agent or Requisite Lenders may request in respect of the Collateral or the Liens created pursuant to the Collateral Documents; (e) all the actual and reasonable out-of-pocket costs and fees, expenses and disbursements of any auditors, accountants, consultants or appraisers retained by Administrative Agent or Collateral Agent in connection with the Credit Documents and identified to Borrower prior to their retention; (f) all the actual costs and expenses (including the fees,

expenses and disbursements of any appraisers, consultants, advisors and agents employed or retained by Collateral Agent and its counsel) in connection with the custody or preservation of any of the Collateral; (g) all other actual and reasonable out-of-pocket costs and expenses incurred by Arranger and each Agent in connection with the syndication of the Loans and Commitments and the negotiation, preparation and execution of the Credit Documents and any consents, amendments, waivers or other modifications thereto and the transactions contemplated thereby; and (h) after the occurrence of a Default or an Event of Default, all costs and expenses, including reasonable attorneys' fees (including allocated costs of internal counsel) and costs of settlement, incurred by Arranger, each and any Agent or each and any Lender in enforcing any Obligations of or in collecting any payments due from any Credit Party hereunder or under the other Credit Documents by reason of such Default or Event of Default (including in connection with the sale of, collection from, or other realization upon any of the Collateral or the enforcement of the Guaranty) or in connection with any refinancing or restructuring of the credit arrangements provided hereunder in the nature of a "work-out" or pursuant to any insolvency or bankruptcy cases or proceedings.

Indemnity.

(a) In addition to the payment of expenses pursuant to Section 10.2, whether or not the transactions contemplated hereby shall be consummated, each Credit Party agrees to defend (subject to Indemnitees' selection of counsel), indemnify, pay and hold harmless, Arranger, each Agent, each Lender and the officers, partners, directors, trustees, employees, agents (including advisors) and Affiliates of Arranger, each Agent, each Lender (each, an "**Indemnitee**"), from and against any and all Indemnified Liabilities; provided, no Credit Party shall have any obligation to any Indemnitee hereunder with respect to any Indemnified Liabilities to the extent such Indemnified Liabilities arise from the gross negligence or willful misconduct of that Indemnitee as determined by a final non-appealable judgment of a court of

competent jurisdiction. As used herein, "**Indemnified Liabilities**" means, collectively, any and all liabilities, obligations, losses, damages (including natural resource damages), penalties, actions, judgments, suits, claims (including Environmental Claims), costs (including the costs of any investigation, study, sampling, testing, abatement, cleanup, removal, remediation or other response action necessary to remove, remediate, clean up or abate any Hazardous Materials Activity), expenses and disbursements of any kind or nature whatsoever (including the reasonable fees and disbursements of counsel for Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened by any Person, whether or not any such Indemnitee shall be designated as a party or a potential party thereto, and any fees or expenses incurred by Indemnitees in enforcing this indemnity), whether direct, indirect or consequential and whether based on any federal, state or foreign laws, statutes, rules or regulations (including securities and commercial laws, statutes, rules or regulations and Environmental Laws), on common law or equitable cause or on contract or otherwise, that may be imposed on, incurred by, or asserted against any such Indemnitee, in any manner relating to or arising out of this Agreement or the other Credit Documents or the transactions contemplated hereby or thereby (including the Lenders' agreement to make Credit Extensions or the use or intended use of the proceeds thereof, or any enforcement of any of the Credit Documents (including any sale of, collection from, or other realization upon any of the Collateral or the enforcement of the Guaranty)).

(b) To the extent that the undertakings to defend, indemnify, pay and hold harmless set forth in this Section 10.3 may be unenforceable in whole or in part because they are violative of any law or public policy, the applicable Credit Party shall contribute the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by Indemnitees or any of them.

(c) To the extent permitted by applicable law, each of Holdings and Company, and its Subsidiaries, shall not assert, and each of Holdings and Company, and its Subsidiaries, hereby waives, any claim against Lenders, Agents and Arranger, and their respective Affiliates, directors, employees, attorneys or agents, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) (whether or not the claim therefor is based on contract, tort or duty imposed by any applicable legal requirement) arising out of, in connection with, arising out of, as a result of, or in any way related to, this Agreement or any Credit Document or any agreement or instrument contemplated hereby or referred to herein, the transactions contemplated hereby, any Loan or the use of the proceeds thereof or any act or omission or event occurring in connection therewith, and each of Holdings and Company, and its Subsidiaries, hereby waives, releases and agrees not to sue upon any such claim or any such damages, whether or not accrued and whether or not known or suspected to exist in its favor.

Set-Off. In addition to any rights now or hereafter granted under applicable law and not by way of limitation of any such rights, upon the occurrence and during the continuance of any Event of Default each Agent, each Lender and each of their respective Affiliates is hereby authorized by each Credit Party at any time or from time to time, without notice to any Credit

Party or to any other Person (other than Administrative Agent), any such notice being hereby expressly waived, to set off and to appropriate and to apply any and all deposits (general or special, including Indebtedness evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts) and any other Indebtedness at any time held or owing by such Agent, Lender or Affiliate to or for the credit or the account of any Credit Party against and on account of the obligations and liabilities of any Credit Party to such Agent, Lender or Affiliate hereunder, and under the other Credit Documents, including all claims of any nature or description arising out of or connected hereto, or with any other Credit Document, irrespective of whether or not (a) such Lender shall have made any demand hereunder or (b) the principal of or the interest on the Loans or any other amounts due hereunder shall have become due and payable pursuant to Section 2 and although such obligations and liabilities, or any of them, may be contingent or unmatured.

Amendments and Waivers.

(a) Requisite Lenders' Consent. Subject to Section 10.5(b) and 10.5(c), no amendment, modification, termination or waiver of any provision of the Credit Documents, or consent to any departure by any Credit Party therefrom, shall in any event be effective without the written concurrence of the Requisite Lenders.

(b) Affected Lenders' Consent. Without the written consent of each Lender that would be affected thereby, no amendment, modification, termination, or consent shall be effective if the effect thereof would:

(i) extend the scheduled final maturity of any Loan or Note;

(ii) waive, reduce or postpone any scheduled repayment (but not prepayment);

(iii) reduce the rate of interest on any Loan (other than any waiver of any increase in the interest rate applicable to any Loan pursuant to Section 2.9) or any fee payable hereunder;

(iv) extend the time for payment of any such interest or fees;

(v) reduce or forgive the principal amount of any Loan;

(vi) amend, modify, terminate or waive any provision of this Section 10.5(b), Section 10.5(c) or Section 2.16 hereof, or Section 7.2 of the Pledge and Security Agreement;

(vii) amend the definition of "**Requisite Lenders**" or "**Pro Rata Share**";

(viii) release all or substantially all of the Collateral or all or substantially all of the Guarantors from the Guaranty except as expressly provided in the Credit Documents;

(ix) consent to the assignment or transfer by any Credit Party of any of its rights and obligations under any Credit Document; or

(x) modify the term "Interest Period" so as to permit intervals in excess of six (6) months.

(c) Other Consents. No amendment, modification, termination or waiver of any provision of the Credit Documents, or consent to any departure by any Credit Party therefrom, shall:

(i) increase any Term Loan Commitment of any Lender over the amount thereof then in effect without the consent of such Lender; provided, no amendment, modification or waiver of any condition precedent, covenant, Default or Event of Default shall constitute an increase in any Term Loan Commitment of any Lender; or

(ii) amend, modify, terminate or waive any provision of Section 9 as the same applies to any Agent, or any other provision hereof as the same applies to the rights or obligations of any Agent, in each case without the consent of such Agent.

(d) Execution of Amendments, etc. Administrative Agent may, but shall have no obligation to, with the concurrence of any Lender, execute amendments, modifications, waivers or consents on behalf of such Lender. Any waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. No notice to or demand on any Credit Party in any case shall entitle any Credit Party to any other or further notice or demand in similar or other circumstances. Any amendment, modification, termination, waiver or consent effected in accordance with this Section 10.5 shall be binding upon each Lender at the time outstanding, each future Lender and, if signed by a Credit Party, on such Credit Party.

Successors and Assigns; Participations.

(a) Generally. This Agreement shall be binding upon the parties hereto and their respective successors and assigns and shall inure to the benefit of the parties hereto and the

successors and assigns of Lenders. No Credit Party's rights or obligations hereunder nor any interest therein may be assigned or delegated by any Credit Party without the prior written consent of all Lenders. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby and, to the extent expressly contemplated hereby, Affiliates of each of the Agents and Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Register. Borrower, Administrative Agent and Lenders shall deem and treat the Persons listed as Lenders in the Register as the holders and owners of the corresponding Commitments and Loans listed therein for all purposes hereof, and, except as provided in Section 10.6(e), no assignment or transfer of any such Commitment or Loan shall be effective, in each case, unless and until an Assignment Agreement effecting the assignment or transfer thereof shall have been delivered to and accepted by Administrative Agent and recorded in the Register as provided in Section 10.6(f). In the case of a Related Lender Assignment described in Section 10.6(e) that is not reflected in the Register, the assigning Lender shall maintain a comparable register. Prior to such recordation, all amounts owed with respect to the applicable Commitment or Loan shall be owed to the Lender listed in the Register as the owner thereof, and any request, authority or consent of any Person who, at the time of making such request or giving such authority or consent, is listed in the Register as a Lender shall be conclusive and binding on any subsequent holder, assignee or transferee of the corresponding Commitments or Loans.

(c) Right to Assign. Each Lender shall have the right at any time to sell, assign or transfer all or a portion of its rights and obligations under this Agreement, including, without limitation, all or a portion of its Commitment or Loans owing to it or other Obligation (provided, however, that each such assignment shall be of a uniform, and not varying, percentage of all rights and obligations under and in respect of any Loan and any related Commitments):

(i) to any Person meeting the criteria of clause (i) of the definition of the term of "Eligible Assignee" (a"**Related Lender Assignment**") upon the giving of notice to Borrower and Administrative Agent and, for any assignment of a Term Loan Commitment, the consent of Administrative Agent (such consent not to be unreasonably withheld or delayed);

(ii) to any Person meeting the criteria of clause (ii) of the definition of the term of "Eligible Assignee" (other than a Person described in the foregoing subclause (i)) and (except in the case of assignments made by or to Credit Suisse) consented to by Borrower and Administrative Agent (such consent (x) not to be unreasonably withheld or delayed or, (y) in the case of Borrower, shall be deemed to have been provided to any such assignment unless the Borrower shall have objected thereto by written notice to the Administrative Agent within fifteen (15) days after having received notice of such assignment, or (z) in the case of

Borrower, not to be required at any time during syndication of the Loans to persons identified by the Administrative Agent to the Borrower on or prior to the Closing Date or at any time an Event of Default under Sections 8.1(a), 8.1(f) or 8.1(g) shall have occurred and then be continuing; provided, further each such assignment pursuant to this Section 10.6(c)(ii) shall be in an aggregate amount of not less than $1,000,000 (or such lesser amount as may be agreed to by Borrower and Administrative Agent or as shall constitute the aggregate amount of the Term Loan Commitments and Term Loans of the assigning Lender) with respect to the assignment of the Term Loan Commitments and Term Loans; and

(iii) to the Borrower pursuant to a Permitted Loan Purchase upon the giving of notice to Administrative Agent. Any Loans acquired by Borrower shall be deemed cancelled and retired immediately upon closing of such Permitted Loan Purchase. It is confirmed and acknowledged that, upon such cancellation or retirement of Loans pursuant to a Permitted Loan Purchase, the Loans so cancelled or retired shall be deemed not to be outstanding and to have no principal amount for any purposes under this Agreement.

(d) Mechanics. The assigning Lender and the assignee thereof shall execute and deliver to Administrative Agent (i) an Assignment Agreement (A) via an electronic settlement system acceptable to Administrative Agent (which initially shall be ClearPar, LLC), or (B) manually together with a processing and recordation fee of $3,500, and (ii) such forms, certificates or other evidence, if any, with respect to United States federal income tax withholding matters as the assignee under

such Assignment Agreement may be required to deliver to Administrative Agent pursuant to Section 2.19(c); provided, however, that should a Lender or assignee party to a Related Lender Assignment deliver an Assignment Agreement to the Administrative Agent for recording, such Lender or assignee shall provide the relevant administration details and applicable tax forms with such Assignment Agreement. The Assignment Agreement executed in connection with any Permitted Loan Purchase shall include the following representations:

> Each party to this Assignment represents and warrants to each Agent and each Lender that it has made its own independent investigation of the facts and circumstances surrounding this Assignment and the transactions contemplated hereby, and has not relied in any way on any statement, advice or recommendation of any Agent or Lender in connection herewith or therewith. No Agent shall have any duty or responsibility to disclose information to the parties to this Assignment in connection herewith and no Agent shall have any responsibility with respect to the accuracy of or the completeness of any information provided to parties to this Assignment relating to any of the foregoing.

(e) Related Lender Assignments. Notwithstanding anything contained in this Section 10.6 to the contrary, a Lender may effect a Related Lender Assignment with respect to Term Loans held by it without delivering an Assignment Agreement to Administrative Agent or to Company and without payment of the assignment fee referred to in Section 10.6(d); provided, that, if and when an Assignment Agreement is delivered to Administrative Agent, it is delivered via ClearPar, LLC, or such other electronic settlement system acceptable to the Administrative Agent; provided, however, that (i) Company, Administrative Agent and the other Lenders shall continue to deal solely and directly with such assigning Lender in connection with such Lender's rights and obligations under this Agreement until such Assignment Agreement has been delivered to Administrative Agent and recorded in the Register and (ii) anything contained herein to the contrary notwithstanding, if such Related Lender Assignment is to a Person that is not a United States Person (as such term is defined in Section 7701(a)(30) of the Internal Revenue Code), such assignee party to such Related Lender Assignment shall comply with Section 2.19(c) hereof as if such assignee party had delivered an Assignment Agreement to Administrative Agent on the effective date of such Related Lender Assignment. The failure of such assigning Lender to deliver an Assignment Agreement to Administrative Agent shall not affect the legality, validity or binding effect of such assignment.

(f) Notice of Assignment. Upon its receipt of a duly executed and completed Assignment Agreement, together with the processing and recordation fee referred to in Section 10.6(d) (and any forms, certificates or other evidence required by this Agreement in connection therewith), Administrative Agent shall record the information contained in such Assignment Agreement in the Register and shall maintain a copy of such Assignment Agreement.

(g) Representations and Warranties of Assignee. Each Lender, upon execution and delivery hereof or upon executing and delivering an Assignment Agreement, as the case may be, represents and warrants as of the Closing Date or as of the applicable Effective Date (as defined in the applicable Assignment Agreement or Term Loan Joinder Agreement) that (i) it is an Eligible Assignee; (ii) it has experience and expertise in the making of or investing in commitments or loans such as the applicable Commitments or Loans, as the case may be; and (iii) it will make or invest in, as the case may be, its Commitments or Loans for its own account in the ordinary course of its business and without a view to distribution of such Commitments or Loans within the meaning of the Securities Act or the Exchange Act or other federal securities laws (it being understood that, subject to the provisions of this Section 10.6, the disposition of such Commitments or Loans or any interests therein shall at all times remain within its exclusive control).

(h) Effect of Assignment. Subject to the terms and conditions of this Section 10.6, as of the "Effective Date" specified in the applicable Assignment Agreement: (i) the assignee thereunder shall have the rights and obligations of a "Lender" hereunder to the extent such rights and obligations hereunder have been assigned to it pursuant to such Assignment Agreement and shall thereafter be a party hereto and a "Lender" for all purposes hereof; (ii) the assigning Lender thereunder shall, to the extent that rights and obligations hereunder have been assigned thereby pursuant to such Assignment Agreement, relinquish its rights (other than any

rights which survive the termination hereof under Section 10.8) and be released from its obligations hereunder (and, in the case of an Assignment Agreement covering all or the remaining portion of an assigning Lender's rights and obligations hereunder, such Lender shall cease to be a party hereto; provided, anything contained in any of the Credit Documents to the contrary notwithstanding, such assigning Lender shall continue to be entitled to the benefit of all indemnities hereunder as specified herein with respect to matters arising out of the prior involvement of such assigning Lender as a Lender hereunder); (iii) the Commitments shall be modified to reflect the Commitment of such assignee and any Term Loan Commitment of such assigning Lender, if any; and (iv) if any such assignment occurs after the issuance of any Note hereunder, the assigning Lender shall, upon the effectiveness of such assignment or as promptly thereafter as practicable, surrender its applicable Notes to Administrative Agent for cancellation or deliver a lost note affidavit, and thereupon Borrower shall issue and deliver new Notes, if so requested by the assignee and/or assigning Lender, to such assignee and/or to such assigning Lender, with appropriate insertions, to reflect the new Term Loan Commitments and/or outstanding Loans of the assignee and/or the assigning Lender.

(i) Participations. Each Lender shall have the right at any time to sell one or more participations to any Person (other than to a natural person, Holdings, any of its Subsidiaries or any of its Affiliates) in all or any part of its Commitments, Loans or in any other Obligation. The holder of any such participation shall not be entitled to require such Lender to take or omit to take any action hereunder except with respect to any amendment, modification or waiver that would (i) extend the final scheduled maturity of any Loan or Note in which such participant is participating, or reduce the rate or extend the time of payment of interest or fees thereon (except in connection with a waiver of applicability of any post-default increase in interest rates) or reduce the principal amount thereof, or increase the amount of the participant's participation over the amount thereof then in effect (it being understood that a waiver of any Default or Event of Default or of a mandatory reduction in the Commitment shall not constitute a change in the terms of such participation, and that an increase in any Commitment or Loan shall be permitted without the consent of any participant if the participant's participation is not increased as a result thereof), (ii) consent to the assignment or transfer by any Credit Party of any of its rights and obligations under this Agreement or (iii) release all or substantially all of the Collateral under the Collateral Documents (except as expressly provided in the Credit Documents) supporting the Loans hereunder in which such participant is participating. Borrower agrees that each participant shall be entitled to the benefits of Sections 2.17(c), 2.18 and 2.19 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (c) of this Section; provided, (i) a participant shall not be entitled to receive any greater payment under Section 2.18 or 2.19 than the applicable Lender would have been entitled to receive with respect to the participation sold to such participant, unless the sale of the participation to such participant is made with Borrower's prior written consent and (ii) a participant that would be a Non-US Lender if it were a Lender shall not be entitled to the benefits of Section 2.19 unless Borrower is notified of the participation sold to such participant and such participant agrees, for the benefit of Borrower, to comply with Section 2.19 as though it were a Lender. To the extent permitted by law, each participant also shall be entitled to the benefits of Section 10.4 as though it were a Lender, provided such Participant agrees to be subject to Section 2.16 as though it were a Lender.

(j) Certain Other Assignments. In addition to any other assignment permitted pursuant to this Section 10.6, (i) any Lender may assign and/or pledge all or any portion of its Loans, the other Obligations owed by or to such Lender, and its Notes, if any, to secure obligations of such Lender including, without limitation, any Federal Reserve Bank as collateral security pursuant to Regulation A of the Board of Governors of the Federal Reserve System and any operating circular issued by such Federal Reserve Bank; provided, no Lender, as between Company and such Lender, shall be relieved of any of its obligations hereunder as a result of any such assignment and pledge, and provided further, in no event shall the applicable Federal Reserve Bank, pledgee or trustee be considered to be a "Lender" or be entitled to require the assigning Lender to take or omit to take any action hereunder.

Independence of Covenants. All covenants hereunder shall be given independent effect so that if a particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or would otherwise be within the limitations of, another covenant shall not avoid the occurrence of a Default or an Event of Default if such action is taken or condition exists.

Survival of Representations, Warranties and Agreements. All representations, warranties and agreements made herein shall survive the execution and delivery hereof and the making of any Credit Extension. Notwithstanding anything herein or implied by law to the contrary, the agreements of each Credit Party set forth in Sections 2.18(c), 2.19, 2.20, 10.2, 10.3 and 10.4 and the agreements of Lenders set forth in Sections 2.17, 9.3(b) and 9.6 shall survive the payment of the Loans and the termination hereof.

No Waiver; Remedies Cumulative. No failure or delay on the part of Arranger, any Agent or any Lender in the exercise of any power, right or privilege hereunder or under any other Credit Document shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other power, right or privilege. The rights, powers and remedies given to Arranger, each Agent and each Lender hereby are cumulative and shall be in addition to and independent of all rights, powers and remedies existing by virtue of any statute or rule of law or in any of the other Credit Documents. Any forbearance or failure to exercise, and any delay in exercising, any right, power or remedy hereunder shall not impair any such right, power or remedy or be construed to be a waiver thereof, nor shall it preclude the further exercise of any such right, power or remedy.

Marshalling; Payments Set Aside. Neither any Agent nor any Lender shall be under any obligation to marshal any assets in favor of any Credit Party or any other Person or against or in payment of any or all of the Obligations. To the extent that any Credit Party makes a payment or payments to Administrative Agent or Lenders (or to Administrative Agent, on behalf of Lenders), or Administrative Agent or Lenders enforce any security interests or exercise their rights of setoff, and such payment or payments or the proceeds of such enforcement or setoff or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a trustee, receiver or any other party under any

bankruptcy law, any other state or federal law, common law or any equitable cause, then, to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor or related thereto, shall be revived and continued in full force and effect as if such payment or payments had not been made or such enforcement or setoff had not occurred.

Severability. In case any provision in or obligation hereunder or any Note shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

Obligations Several; Independent Nature of Lenders' Rights. The obligations of Lenders hereunder are several and no Lender shall be responsible for the obligations or Commitment of any other Lender hereunder. Nothing contained herein or in any other Credit Document, and no action taken by Lenders pursuant hereto or thereto, shall be deemed to constitute Lenders as a partnership, an association, a joint venture or any other kind of entity. The amounts payable at any time hereunder to each Lender shall be a separate and independent debt, and each Lender shall be entitled to protect and enforce its rights arising out hereof and it shall not be necessary for any other Lender to be joined as an additional party in any proceeding for such purpose.

Headings. Section headings herein are included herein for convenience of reference only and shall not constitute a part hereof for any other purpose or be given any substantive effect.

APPLICABLE LAW. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES THEREOF.

CONSENT TO JURISDICTION. ALL JUDICIAL PROCEEDINGS BROUGHT AGAINST ANY CREDIT PARTY ARISING OUT OF OR RELATING HERETO OR ANY OTHER CREDIT DOCUMENT, OR ANY OF THE OBLIGATIONS, MAY BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION IN THE STATE, COUNTY AND CITY OF NEW YORK. BY EXECUTING AND DELIVERING THIS AGREEMENT, EACH CREDIT PARTY, FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, IRREVOCABLY (a) ACCEPTS GENERALLY AND UNCONDITIONALLY THE NONEXCLUSIVE JURISDICTION AND VENUE OF SUCH COURTS; (b) WAIVES ANY DEFENSE OF FORUM NON CONVENIENS; (c) AGREES THAT SERVICE OF ALL PROCESS IN ANY SUCH PROCEEDING IN ANY SUCH COURT MAY BE MADE BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE APPLICABLE

CREDIT PARTY AT ITS ADDRESS PROVIDED IN ACCORDANCE WITH SECTION 10.1; (d) AGREES THAT SERVICE AS PROVIDED IN CLAUSE (c) ABOVE IS SUFFICIENT TO CONFER PERSONAL JURISDICTION OVER THE APPLICABLE CREDIT PARTY IN ANY SUCH PROCEEDING IN ANY SUCH COURT, AND OTHERWISE CONSTITUTES EFFECTIVE AND BINDING SERVICE IN EVERY RESPECT; AND (e) AGREES AGENTS AND LENDERS RETAIN THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST ANY CREDIT PARTY IN THE COURTS OF ANY OTHER JURISDICTION.

WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY AGREES TO WAIVE ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING HEREUNDER OR UNDER ANY OF THE OTHER CREDIT DOCUMENTS OR ANY DEALINGS BETWEEN THEM RELATING TO THE SUBJECT MATTER OF THIS LOAN TRANSACTION OR THE LENDER/COMPANY RELATIONSHIP THAT IS BEING ESTABLISHED. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS TRANSACTION, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. EACH PARTY HERETO ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, WHICH EACH HAS ALREADY RELIED ON THIS WAIVER IN ENTERING INTO THIS AGREEMENT, AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN ITS RELATED FUTURE DEALINGS. EACH PARTY HERETO FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING (OTHER THAN BY A MUTUAL WRITTEN WAIVER SPECIFICALLY REFERRING TO THIS SECTION 10.16 AND EXECUTED BY EACH OF THE PARTIES HERETO), AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS HERETO OR ANY OF THE OTHER CREDIT DOCUMENTS OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THE LOANS MADE HEREUNDER. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

Confidentiality. Each Lender shall hold all non-public information regarding Holdings and its Subsidiaries and their businesses identified as such by Borrower and obtained by such Lender pursuant to the requirements hereof in accordance with such Lender's customary procedures for handling confidential information of such nature, it being understood and agreed by Holdings that, in any event, a Lender may make disclosures: (i) to Affiliates of such Lender and to their agents and advisors (and to other

persons authorized by a Lender or Agent to

organize, present or disseminate such information in connection with disclosures otherwise made in accordance with this Section 10.17); (ii) reasonably required by any bona fide or potential pledgee, assignee, transferee or participant in connection with the contemplated pledge, assignment, transfer or participation by such Lender of any Loans or any participations therein or by any direct or indirect contractual counterparties (or the professional advisors thereto) in Hedge Agreements (provided, such counterparties and advisors are advised of and agree to be bound by the provisions of this Section 10.17); (iii) to any rating agency when required by it, provided that, prior to any disclosure, such rating agency shall undertake in writing to preserve the confidentiality of any confidential information relating to the Credit Parties received by it from any of the Agents or any Lender; and (iv) required or requested by any governmental agency or representative thereof or by The National Association of Insurance Commissioners (and any successor thereto) or pursuant to legal or judicial process; provided, unless specifically prohibited by applicable law or court order, each Lender shall make reasonable efforts to notify Borrower of any request by any governmental agency or representative thereof (other than any such request in connection with any examination of the financial condition or other routine examination of such Lender by such governmental agency) for disclosure of any such non-public information prior to disclosure of such information; provided, further, that in no event shall any Lender be obligated or required to return any materials furnished by Holdings, Company or any of its Subsidiaries. Notwithstanding anything to the contrary set forth herein, each party (and each of their respective employees, representatives or other agents) may disclose to any and all persons, without limitations of any kind, the tax treatment and tax structure of the transactions contemplated by this Agreement and all materials of any kind (including opinions and other tax analyses) that are provided to any such party relating to such tax treatment and tax structure. However, any information relating to the tax treatment or tax structure shall remain subject to the confidentiality provisions hereof (and the foregoing sentence shall not apply) to the extent reasonably necessary to enable the parties hereto, their respective Affiliates, and their and their respective Affiliates' directors and employees to comply with applicable securities laws. For this purpose, "tax structure" means any facts relevant to the federal income tax treatment of the transactions contemplated by this Agreement but does not include information relating to the identity of any of the parties hereto or any of their respective Affiliates.

Usury Savings Clause. Notwithstanding any other provision herein, the aggregate interest rate charged with respect to any of the Obligations, including all charges or fees in connection therewith deemed in the nature of interest under applicable law shall not exceed the Highest Lawful Rate. If the rate of interest (determined without regard to the preceding sentence) under this Agreement at any time exceeds the Highest Lawful Rate, the outstanding amount of the Loans made hereunder shall bear interest at the Highest Lawful Rate until the total amount of interest due hereunder equals the amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect. In addition, if when the Loans made hereunder are repaid in full the total interest due hereunder (taking into account the increase provided for above) is less than the total amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect, then to the extent permitted by law, Borrower shall pay to Administrative Agent an amount equal to the difference between the amount of interest paid and the amount of interest which would have been paid if the Highest Lawful Rate had at all times been in effect. Notwithstanding the foregoing, it is the intention of Lenders and Company

to conform strictly to any applicable usury laws. Accordingly, if any Lender contracts for, charges, or receives any consideration which constitutes interest in excess of the Highest Lawful Rate, then any such excess shall be cancelled automatically and, if previously paid, shall at such Lender's option be applied to the outstanding amount of the Loans made hereunder or be refunded to Borrower.

Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

Effectiveness. This Agreement shall become effective upon the execution of a counterpart hereof by each Credit Party, the Administrative Agent, the Collateral Agent and the Lenders.

APPENDIX A-1
TO CREDIT AND GUARANTY AGREEMENT

[Reserved]

APPENDIX B
TO CREDIT AND GUARANTY AGREEMENT

Notice Addresses

DOUGLAS DYNAMICS, INC.
DOUGLAS DYNAMICS FINANCE COMPANY
DOUGLAS DYNAMICS, L.L.C.
FISHER, LLC

7777 North 73rd Street
Milwaukee, WI 53223
Attention: Chief Executive Officer and President
Fax: 414-354-8448

with a copy to:

Aurora Capital Group
10877 Wilshire Boulevard
Suite 2100
Los Angeles, CA 90024
Attention: Secretary

Fax: 310-824-2791

CREDIT SUISSE AG,
acting through its Cayman Islands Branch,
as Administrative Agent, Collateral Agent,
Syndication Agent, Documentation Agent and a Lender

Principal Office of Administrative Agent, Collateral Agent,
Syndication Agent and Documentation Agent:

Eleven Madison Avenue, OMA-2
New York, NY 10010
Attention: Loan Services Manager
Tel: 212-538-3380
Fax: 212-325-8304

Exhibit B

Amendment to Term Credit Agreement

See attached.

Amendment No. 1

Exhibit C

Intercreditor Amendment

See attached.

Exhibit C

Intercreditor Amendment

AMENDMENT NO. 1 TO INTERCREDITOR AGREEMENT

This AMENDMENT NO. 1 TO INTERCREDITOR AGREEMENT (this "Amendment"), dated as of April [ ], 2010, is made and entered into among Douglas Dynamics, L.L.C., a Delaware limited liability company (the "Borrower"), Douglas Dynamics Finance Company, a Delaware corporation ("DD Finance"), Fisher, LLC, as Delaware limited liability company ("Fisher"), Douglas Dynamics, Inc., a Delaware corporation ("Holdings"), Credit Suisse AG, Cayman Islands Branch ("Credit Suisse"), in its capacity as administrative agent under the ABL Loan Documents (as defined in the Intercreditor Agreement referred to below) (in such capacity, the "ABL Administrative Agent"), JPMorgan Chase Bank, N.A, in its capacity as collateral agent under the ABL Loan Documents (in such capacity, the "ABL Collateral Agent"), Credit Suisse, in its capacities as administrative agent (in such capacity, the "Term Administrative Agent" and, together with the ABL Administrative Agent, the "Administrative Agents") and collateral agent (in such capacity, the "Term Collateral Agent") under the Term Loan Documents (as defined in the Intercreditor Agreement referred to below).

RECITALS

A. The Borrower, DD Finance, Fisher, Holdings, the ABL Administrative Agent, the ABL Collateral Agent, the Term Administrative Agent and the Term Collateral Agent entered into that certain Intercreditor Agreement dated as of May 21, 2007 (the "Intercreditor Agreement"; capitalized terms used but not defined herein having the meanings set forth therein).

B. Concurrently herewith, the Term Credit Agreement and the ABL Credit Agreement have been amended to permit the making of additional term loans under the Term Credit Agreement in the principal amount of $40,000,000 and reflect certain other changes.

C. The ABL Required Lenders and the Term Required Lenders have given their prior written consent to the execution of this Amendment.

D. The Borrower, the Term Administrative Agent, the Term Collateral Agent, the ABL Administrative Agent and the ABL Collateral Agent desire to amend the Intercreditor Agreement as set forth below on and subject to the terms of this Amendment.

AGREEMENT

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

1. Amendment to Intercreditor Agreement.

(a) The definition of "Maximum Term Principal Amount" in Section 1.1 of the Intercreditor Agreement is hereby amendedin its entirety by deleting the existing definition and replacing it with the following:

"Maximum Term Principal Amount" shall mean, at any time, (i) $125,000,000, less (ii) the aggregate principal amount of permanent repayments or prepayments of indebtedness under the Term Credit Agreement, other than any such reduction, repayment or prepayment made in

connection with a Refinancing, plus (iii) for the avoidance of doubt and without duplication, the aggregate principal amount of any interest that has been capitalized under the Term Credit Agreement..

(b) The definition of "Maximum ABL Principal Amount" in Section 1.1 of the Intercreditor Agreement is hereby amended in its entirety by deleting the existing definition and replacing it with the following:

"Maximum ABL Principal Amount" shall mean, at any time, (i) $60,000,000, less (ii) the aggregate permanent reductions in the ABL Loan Commitments other than any such reduction, repayment or prepayment made in connection with a Refinancing, plus (iii) for the avoidance of doubt and without duplication, the aggregate principal amount of any interest that has been capitalized under the ABL Credit Agreement.

2. Effectiveness of Amendment.. This Amendment shall be effective as of the first date (the "Amendment Effective Date") on which all of the following conditions precedent have been satisfied:

(c) The Administrative Agents shall have received counterparts of this Amendment executed by the Term Administrative Agent, the Term Collateral Agent, the ABL Administrative Agent, the ABL Collateral Agent, the Borrower, DD Finance, Fisher and Holdings.

(d) The Administrative Agents shall have received an executed copy of Amendment No. 2 to Credit and Guaranty Agreement, dated as of the date hereof (the "Term Amendment"), among the Borrower and each of the lenders party thereto and the Term Amendment shall be in full force and effect.

(e) The Administrative Agents shall have received an executed copy of Amendment No. 1 to Credit and Guaranty Agreement, dated as of the date hereof (the "ABL Amendment"), among the Borrower and each of the lenders party thereto and the ABL Amendment shall be in full force and effect.

3. Miscellaneous. **THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, WITHOUT REGARD TO THE CONFLICT OF LAW RULES THEREOF (OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW).** This Amendment may be executed in one or more duplicate counterparts and when signed by all of the parties listed below shall constitute a single binding agreement. Except for the amendments set forth in Section 1 hereof, all of the provisions of the Intercreditor Agreement shall remain in full force and effect. The foregoing amendments shall be strictly construed in accordance with the express terms thereof. This Amendment shall be deemed a "Credit Document" as defined in the Credit Agreement.

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed by their duly authorized officers as of the day and year first above written.

CREDIT PARTIES:

DOUGLAS DYNAMICS, L.L.C.

By: _____
Name:
Title:

DOUGLAS DYNAMICS, INC.

By: _____
Name:
Title:

DOUGLAS DYNAMICS FINANCE COMPANY

By: _____
Name:
Title:

FISHER, LLC,

By: _____
Name:
Title:

ABL ADMINISTRATIVE AGENT:

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH,
as ABL Administrative Agent

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

ABL COLLATERAL AGENT:

JPMORGAN CHASE, N.A.,
as ABL Collateral Agent

By: _____
Name: _____
Title: _____

TERM ADMINISTRATIVE AGENT AND TERM COLLATERAL AGENT:

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH,
as Term Administrative Agent and Term Collateral Agent

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT A-1

FUNDING NOTICE

Reference is made to the Credit and Guaranty Agreement, dated as of May 21, 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, or otherwise renewed, refinanced or replaced from time to time (including subsequent or successive renewals, refinancings or replacements, and pursuant to one or more agreements or facilities), the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among Douglas Dynamics Holdings, Inc., a Delaware corporation ("Holdings"), Douglas Dynamics, L.L.C., a Delaware limited liability company and a direct wholly-owned Subsidiary of Holdings (the "Company" or the "Borrower"), Fisher, LLC, a Delaware limited liability company ("Fisher") and Douglas Dynamics Finance Company, a Delaware corporation ("DD Finance," and together with Fisher and Holdings, each a "Guarantor" and collectively the "Guarantors"), the banks and financial institutions listed on the signature pages thereof (together with their respective successors and assigns, each individually referred to herein as a "Lender" and collectively as "Lenders"), Credit Suisse, Cayman Islands Branch ("Credit Suisse"), as administrative agent for the Lenders (in such capacity, "Administrative Agent") and as collateral agent for the Lenders (in such capacity, "Collateral Agent").

Pursuant to Section 2.1(b) of the Credit Agreement, Borrower desires that Lenders make the following Credit Extension[s] to Company in accordance with the applicable terms and conditions of the Credit Agreement on [mm/dd/yyyy] (the "Credit Date"):

Term Loans

- Base Rate Loans: $[, ,]
- Eurodollar Rate Loans, with an Initial Interest Period of Month(s): $ [, ,]

Borrower hereby certifies that:

(i) the Credit Extension[s] requested herein [comply] [complies] with the provisions of Section 2.1; and

(ii) the conditions specified in Section 3.1 have been satisfied on and as of the Credit Date.

Date: [mm/dd/yyyy]

DOUGLAS DYNAMICS, L.L.C.

By: _____
Name:
Title:

EXHIBIT A-2

CONVERSION/CONTINUATION NOTICE

Reference is made to the Credit and Guaranty Agreement, dated as of May 21, 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, or otherwise renewed, refinanced or replaced from time to time (including subsequent or successive renewals, refinancings or replacements, and pursuant to one or more agreements or facilities), the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among Douglas Dynamics Holdings, Inc., a Delaware corporation ("Holdings"), Douglas Dynamics, L.L.C., a Delaware limited liability company and a direct wholly-owned Subsidiary of Holdings (the "Company" or the "Borrower"), Fisher, LLC, a Delaware limited liability company ("Fisher") and Douglas Dynamics Finance Company, a Delaware corporation ("DD Finance," and together with Fisher and Holdings, each a "Guarantor" and collectively the "Guarantors"), the banks and financial institutions listed on the signature pages thereof (together with their respective successors and assigns, each individually referred to herein as a "Lender" and collectively as "Lenders"), Credit Suisse, Cayman Islands Branch ("Credit Suisse"), as administrative agent for the Lenders (in such capacity, "Administrative Agent") and as collateral agent for the Lenders (in such capacity, "Collateral Agent").

Pursuant to Section 2.8 of the Credit Agreement, Borrower desires to convert or to continue the following Term Loans, each such conversion and/or continuation to be effective as of [mm/dd/yyyy]:

$[, ,] Eurodollar Rate Loans to be continued with Interest Period of month(s)

$[, ,] Base Rate Loans to be converted to Eurodollar Rate Loans with Interest Period of month(s)

$[, ,] Eurodollar Rate Loans to be converted to Base Rate Loans

Except in the case of a conversion to Base Rate Loans, Borrower hereby certifies that as of the date hereof, no event has occurred and is continuing or would result from the consummation of the conversion and/or continuation contemplated hereby that would constitute an Event of Default or a Default.

Date: [mm/dd/yyyy]

DOUGLAS DYNAMICS, L.L.C.

By: _____
Name:
Title:

EXHIBIT B

TERM LOAN NOTE

$[Lender's Term Loan Commitment]
[ ], 2007 New York, New York

FOR VALUE RECEIVED, the undersigned (the "Borrower"), promises to pay [NAME OF LENDER] ("Payee") or its registered assigns, on or before the Maturity Date, the lesser of (a) [AMOUNT] DOLLARS ($[, ,]) and (b) the unpaid principal amount of all advances made by Payee to the Borrower as Term Loans under the Credit and Guaranty Agreement, dated as of May 21, 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, or otherwise renewed, refinanced or replaced from time to time (including subsequent or successive renewals, refinancings or replacements, and pursuant to one or more agreements or facilities), the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among Douglas Dynamics Holdings, Inc., a Delaware corporation, Douglas Dynamics, L.L.C., a Delaware limited liability company, Fisher, LLC, a Delaware limited liability company, Douglas Dynamics Finance Company, a Delaware corporation, the banks and financial institutions listed on the signature pages thereof (together with their respective successors and assigns, each individually referred to herein as a "Lender" and collectively as "Lenders"), Credit Suisse, Cayman Islands Branch ("Credit Suisse"), as administrative agent for the Lenders (in such capacity, "Administrative Agent") and as collateral agent for the Lenders (in such capacity, "Collateral Agent").

This Term Loan Note (this "Note") is one of the "Term Loan Notes" issued pursuant to and entitled to the benefits of the Credit Agreement, to which reference is hereby made for a more complete statement of the terms and conditions under which the Term Loans evidenced hereby were made and are to be repaid.

All payments of principal and interest in respect of this Note shall be made in lawful money of the United States of America in same day funds at the Principal Office of Administrative Agent or at such other place as shall be designated in writing for such purpose in accordance with the terms of the Credit Agreement. Unless and until an Assignment Agreement effecting the assignment or transfer of the obligations evidenced hereby shall have been accepted by Administrative Agent and recorded in the Register, the Borrower, each Agent and Lenders shall be entitled to deem and treat Payee as the owner and holder of this Note and the obligations evidenced hereby. Payee hereby agrees, by its acceptance hereof, that before disposing of this Note or any part hereof it will make a notation hereon of all principal payments previously made hereunder and of the date to which interest hereon has been paid; provided that the failure to make a notation of any payment made on this Note shall not limit or otherwise affect the obligations of the Borrower hereunder with respect to payments of principal of or interest on this Note.

This Note is subject to mandatory prepayment and to prepayment at the option of the Borrower, each as provided in the Credit Agreement.

THIS NOTE AND THE RIGHTS AND OBLIGATIONS OF THE BORROWER AND PAYEE HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES THEREOF.

Whenever possible, each provision of this Note shall be interpreted in such manner as to be effective and valid under applicable law, but in case any provision of or obligation under this Note shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby. Whenever in this Note reference is made to Administrative Agent, Payee or the Borrower, such reference shall be deemed to include, as applicable, a reference to their respective successors and assigns. The provisions of this Note shall be binding upon the Borrower and its successors and assigns, and shall inure to the benefit of Payee and its successors and assigns.

Upon the occurrence of an Event of Default, the unpaid balance of the principal amount of this Note, together with all accrued and unpaid interest thereon, may become, or may be declared to be, due and payable in the manner, upon the conditions and with the effect provided in the Credit Agreement.

The terms of this Note are subject to amendment only in the manner provided in the Credit Agreement.

No reference herein to the Credit Agreement and no provision of this Note or the Credit Agreement shall alter or impair the obligations of the Borrower, which are absolute and unconditional, to pay the principal of and interest on this Note at the place, at the respective times, and in the currency herein prescribed.

The Borrower promises to pay all costs and expenses, including reasonable attorneys' fees, all as provided in the Credit Agreement, incurred in the collection and enforcement of this Note. The Borrower and any endorsers of this Note hereby consent to renewals and extensions of time at or after the maturity hereof, without notice, and hereby waive diligence, presentment, protest, demand notice of every kind and, to the full extent permitted by law, the right to plead any statute of limitations as a defense to any demand hereunder.

[Signature page follows]

IN WITNESS WHEREOF, the Borrower has caused this Note to be duly executed and delivered by its officer thereunto duly authorized as of the date and at the place first written above.

BORROWER:

DOUGLAS DYNAMICS, L.L.C.

By: _____
Name:
Title:

TRANSACTIONS ON
TERM LOAN NOTE

Date	Amount of Loan Made This Date	Amount of Principal Paid This Date	Outstanding Principal Balance This Date	Notation Made By

EXHIBIT C

COMPLIANCE CERTIFICATE

THE UNDERSIGNED HEREBY CERTIFIES AS FOLLOWS:

1. I am the Chief Financial Officer of Douglas Dynamics, L.L.C. (the "Company" or the "Borrower").

2. I have reviewed the terms of that certain Credit and Guaranty Agreement, dated as of May 21, 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, or otherwise renewed, refinanced or replaced from time to time (including subsequent or successive renewals, refinancings or replacements, and pursuant to one or more agreements or facilities), the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among Douglas Dynamics Holdings, Inc., a Delaware corporation ("Holdings"), the Company, Fisher, LLC, a Delaware limited liability company ("Fisher") and Douglas Dynamics Finance Company, a Delaware corporation ("DD Finance," and together with Fisher and Holdings, each a "Guarantor" and collectively the "Guarantors") the banks and financial institutions listed on the signature pages thereof (together with their respective successors and assigns, each individually referred to herein as a "Lender" and collectively as "Lenders"), Credit Suisse, Cayman Islands Branch ("Credit Suisse"), as administrative agent for the Lenders (in such capacity, "Administrative Agent") and as collateral agent for the Lenders (in such capacity, "Collateral Agent"), and I have made, or have caused to be made under my supervision, a review in reasonable detail of the transactions and condition of Holdings and its Subsidiaries during the accounting period covered by the attached financial statements.

3. The examination described in paragraph 2 above did not disclose, and I have no knowledge of, the existence of any condition or event which constitutes an Event of Default or Default during or at the end of the accounting period covered by the attached financial statements or as of the date of this Certificate, except as set forth in a separate attachment, if any, to this Certificate, describing in detail, the nature of the condition or event, the period during which it has existed and the action which the Company or any of its Subsidiaries has taken, is taking, or proposes to take with respect to each such condition or event.

The foregoing certifications, together with the computations set forth in the Annex A hereto and made a part hereof and the financial statements delivered with this Certificate in support hereof, are made and delivered [mm/dd/yyyy] pursuant to Section 5.1(d) or 5.1(i) of the Credit Agreement or in connection with the making of a Permitted Acquisition under the Credit Agreement.

DOUGLAS DYNAMICS, L.L.C.

By: _____
Name:
Title:

ANNEX A TO
COMPLIANCE CERTIFICATE

FOR THE FISCAL [QUARTER] [YEAR] ENDING [mm/dd/yyyy]

This Annex A is attached to and made part of a Compliance Certificate dated as of [mm/dd/yyyy] and pertains to the period [mm/dd/yyyy] to [mm/dd/yyyy]. Subsection references herein relate to subsections of the Credit Agreement.

1. Consolidated Adjusted EBITDA:		(i) + (ii)(1) - (iii) (2)=		$	[, ,]
	(i)	Consolidated Net Income:		$	[, ,]
	(ii)	(a)	Consolidated Interest Expense and non-Cash interest expense:	$	[, ,]
		(b)	provisions for taxes based on income:	$	[, ,]
		(c)	total depreciation expense:	$	[, ,]
		(d)	total amortization expense: (3)	$	[, ,]
		(e)	non-cash impairment charges:	$	[, ,]
		(f)	non-cash expenses resulting from the grant of stock and stock options and other compensation to management personnel of the Company and its Subsidiaries pursuant to a written incentive plan or agreement:	$	[, ,]
		(g)	other non-Cash items that are unusual or otherwise non-recurring items:	$	[, ,]
		(h)	expenses for fees under the Management Services Agreement:	$	[, ,]
		(i)	any extraordinary losses and non-recurring charges during any period:(4)	$	[, ,]
		(j)	restructuring charges or reserves:(5)	$	[, ,]
		(k)	any transaction costs incurred in connection with the issuance of Securities or any refinancing transaction, in each case whether or not such transaction is consummated:	$	[, ,]

(1) Without duplication to the extent deducted in the calculation of Consolidated Net Income for such period.

(2) Without duplication.

(3) Including amortization of goodwill, other intangibles, and financing fees and expenses.

(4) Including severance, relocations costs, one-time compensation charges and losses or charges associated with Interest Rate Agreements.

(5) Including costs related to closure of Facilities.

	(1)	any fees and expenses related to any Permitted Acquisitions	$	[, ,]
(iii)	(a)	non-Cash items increasing Consolidated Net Income for such period that are unusual or otherwise non-recurring items:	$	[, ,]
	(b)	cash payments made during such period reducing reserves or liabilities for accruals made in prior periods but only to the extent such reserves or accruals were added back to "Consolidated Adjusted EBITDA" in a prior period pursuant to clauses (ii)(f) or (ii)(g) above:	$	[, ,]
	(c)	Restricted Payments made during such period to Holdings pursuant to Section 6.5(c)(i):	$	[, ,]
2. Consolidated Capital Expenditures:			$	[, ,]
		The aggregate of all expenditures of the Company and its Subsidiaries during such period determined on a consolidated basis that, in accordance with GAAP, are or should be included in "purchase of property and equipment" or similar items reflected in the consolidated statement of cash flows of the Company and its Subsidiaries. (6)		
		Maximum: (7)	$	[, ,]
3. Consolidated Current Assets:			$	[, ,]
		The total assets of the Company and its Subsidiaries on a consolidated basis that may properly be classified as current assets in conformity with GAAP, excluding Cash and Cash Equivalents.		
4. Consolidated Current Liabilities:			$	[, ,]
		The total liabilities of the Company and its Subsidiaries on a consolidated basis that may properly be classified as current liabilities in conformity with GAAP, excluding the current portion of long term debt.		
5. Consolidated Fixed Charges: (i) + (ii) + (iii) + (iv) + (v) = (8)			$	[, ,]
(i)		Consolidated Interest Expense:	$	[, ,]
(ii)		scheduled payments of principal on Consolidated Total Debt:	$	[, ,]
(iii)		Consolidated Capital Expenditures: (9)	$	[, ,]

(6) Excluding expenditures constituting the purchase price for Permitted Acquisitions and amounts constituting Net Asset Sale Proceeds and Net Insurance/Condemnation Proceeds which are reinvested in the business of Company and its Subsidiaries in accordance with Section 2.13(a) or Section 2.13(b) of the Credit Agreement, respectively, by the Company and its Subsidiaries during such period.

(7) Maximum for calendar year.

(8) Without duplication.

(iv)		the portion of taxes based on income actually paid in cash during such period by the Company or any of its Subsidiaries whether for such period or any other period:	$	[, ,]
(v)		Restricted Payments permitted under Section 6.5(c)(iii) of the Credit Agreement and which are paid in cash during such period:	$	[, ,]
6. Consolidated Interest Expense: (i) - (ii) =			$	[, ,]
		(i) total interest expense (including that portion attributable to Capital Leases in accordance with GAAP and capitalized interest) payable in cash of the Company and its Subsidiaries on a consolidated basis with respect to all outstanding Indebtedness of the Company and its Subsidiaries, including all commissions, discounts and other fees and charges owed with respect to letters of credit and net costs under Interest Rate Agreements: (10)	$	[, ,]
		(ii) the aggregate amount of interest income of the Company and its Subsidiaries during such period paid in cash:	$	[, ,]
7. Consolidated Net Income: (i) - (ii) =			$	[, ,]
(i)		the net income (or loss) of the Company and its Subsidiaries on a consolidated basis for such period taken as a single accounting period determined in conformity with GAAP:	$	[, ,]

(ii)	(a)	the income (or loss) of any Person (other than a Subsidiary of the Company) in which any other Person (other than the Company or any of its Subsidiaries) has a joint interest, except to the extent of the amount of dividends or other distributions actually paid to the Company or any of its Subsidiaries by such Person during such period:	$ [, ,]
	(b)	the income (or loss) of any Person accrued prior to the date it becomes a Subsidiary of the Company or is merged into or consolidated with the Company or any of its Subsidiaries or that Person's assets are acquired by the Company or any of its Subsidiaries:	$ [, ,]
	(c)	the income of any Subsidiary of the Company to the extent that the declaration or payment of dividends or similar distributions by that Subsidiary of that income is not at the time permitted by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Subsidiary:	$ [, ,]
	(d)	any after-tax gains or losses attributable to Asset Sales or returned surplus assets of any Pension Plan:	$ [, ,]
	(e)	to the extent not included in items (a) through (d) above, any net extraordinary gains or net extraordinary losses:	$ [, ,]

8. Consolidated Total Debt:

The aggregate stated balance sheet amount of all Indebtedness of the Company and its Subsidiaries determined on a consolidated basis in accordance with GAAP; provided, that the amount of revolving Indebtedness to be included at the date of determination shall be equal to the average of the balances of such revolving Indebtedness as of the end of each of the prior four calendar quarters: (11)	$	[, ,]

9. Fixed Charge Coverage Ratio: (12) (i)/(ii) =

(i)	Consolidated Adjusted EBITDA for the four-Fiscal Quarter Period then ended:	$	[, ,]
(ii)	Consolidated Fixed Charges for such four-Fiscal Quarter Period:	$	[, ,]
	Actual:	. :1.00	
	Required:(13)	1.00:1.00	

10. Leverage Ratio: (14),(15) (i)/(ii) =

(i)	Consolidated Total Debt less unrestricted Cash and Cash Equivalents of the Company and its Subsidiaries as of such day in excess of $1,000,000:	$	[, ,]
(ii)	Consolidated Adjusted EBITDA for the four-Fiscal Quarter period then ended:	$	[, ,]
	Actual:	. :1.00	
	Required:	. :1.00	

(9) Other than those financed with secured Indebtedness permitted by Sections 6.1 and 6.2 of the Credit Agreement or made or incurred pursuant to Section 6.8(b)(ii) of the Revolving Credit Facility.

(10) Excluding any amounts referred to in Section 2.10(d) of the Credit Agreement payable on or before the Closing Date and amounts with respect to the termination of Interest Rate Agreements entered into within 90 days of the Closing Date.

(11) Except that with respect to the first four calendar quarters after the Closing Date, the amount of revolving Indebtedness to be included shall be based on the average of the quarter end balances from the Closing Date through the date of determination.

(12) Calculated as of the last day of any Fiscal Quarter.

(13) If a Liquidity Event then exists.

(14) Calculated as of the last day of any Fiscal Quarter.

(15) For purposes of determining the unsecured debt basket pursuant to Section 6.1(k).

EXHIBIT D

OPINION OF COUNSEL FOR CREDIT PARTIES

EXHIBIT E

ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement (this "Assignment") is dated as of the Effective Date set forth below and is entered into by and between [NAME OF ASSIGNOR] (the "Assignor") and [NAME OF ASSIGNEE] (the "Assignee"). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as the same may be amended, restated, supplemented or otherwise modified from time to time, or otherwise renewed, refinanced or replaced from time to time (including subsequent or successive renewals, refinancings or replacements, and pursuant to one or more agreements or facilities), the "Credit Agreement"), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed are hereby agreed to and incorporated herein by reference and made a part of this Assignment as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by Administrative Agent as contemplated below, the interest in and to all of the Assignor's rights and obligations under the Credit Agreement and any other documents or instruments delivered pursuant thereto that represents the amount and percentage interest identified below of all of the Assignor's outstanding rights and obligations under the respective facilities identified below (including to the extent included in any such Loans and Letters of Credit) (the "Assigned Interest"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and the Credit Agreement, without representation or warranty by the Assignor.

1. Assignor:

2. Assignee: [and is an Affiliate/Related Fund/Sponsor/Fund affiliated with Sponsor(1)]

3. Borrower(s): Douglas Dynamics, L.L.C.

4. Administrative Agent: Credit Suisse, acting through its Cayman Islands Branch, as the administrative agent under the Credit Agreement

5. Credit Agreement: The Credit and Guaranty Agreement, dated as of May 21, 2007, by and among Douglas Dynamics Holdings, Inc., a Delaware corporation ("Holdings"), Douglas Dynamics, L.L.C., a Delaware limited liability company and a direct wholly-owned Subsidiary of Holdings (the "Company" or the "Borrower"), Fisher, LLC, a Delaware limited liability company ("Fisher") and Douglas Dynamics Finance Company, a Delaware corporation ("DD Finance." and together with Fisher and Holdings, each a "Guarantor" and collectively the "Guarantors") the banks and financial institutions listed on the signature pages thereof (together with their respective successors and assigns, each individually referred to herein as a "Lender" and collectively as "Lenders"), Credit Suisse, Cayman Islands Branch ("Credit Suisse"), as administrative agent for the Lenders (in such capacity, "Administrative Agent") and as collateral agent for the Lenders (in such capacity, "Collateral Agent")

(1) Select as applicable.

6. Assigned Term Loan Commitment:

Aggregate Amount of Commitment/Loans for all Lenders	Amount of Commitment/Loans Assigned	Percentage Assigned of Commitment/Loans(2)
$	$	%
$	$	%
$	$	%

Effective Date: , 20 *[TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]*

7. Notice and Wire Instructions:

[NAME OF ASSIGNOR]

Notices:

Attention:
Telecopier:

with a copy to:

Attention:
Telecopier:

Wire Instructions:

[NAME OF ASSIGNEE]

Notices:

Attention:
Telecopier:

with a copy to:

Attention:
Telecopier:

Wire Instructions:

(2) Set forth, to at least 9 decimal places, as a percentage of the Commitment/Loans of all Lenders thereunder.

The terms set forth in this Assignment are hereby agreed to:

ASSIGNOR:

[NAME OF ASSIGNOR]

By: _____
Name:
Title:

ASSIGNEE:
[NAME OF ASSIGNEE]

By: _____
Name:
Title:

[Consented to and](3) Accepted:

CREDIT SUISSE,
acting through its Cayman Islands Branch,
as Administrative Agent

By: _____
Name:
Title:

By: _____
Name:
Title:

[Consented to by Borrower:](4)

DOUGLAS DYNAMICS, L.L.C.

By: _____
Name:
Title:

(3) If required pursuant to Section 10.6(c) of the Credit Agreement.

(4) If required pursuant to Section 10.6(c) of the Credit Agreement.

ANNEX 1

STANDARD TERMS AND CONDITIONS FOR ASSIGNMENT AND ASSUMPTION AGREEMENT

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with any Credit Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Credit Agreement or any other instrument or document delivered pursuant thereto, other than this Assignment (herein collectively the "Credit Documents"), or any collateral thereunder, (iii) the financial condition of Holdings, the Company, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Credit Document or (iv) the performance or observance by Holdings, the Company, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Credit Document.

1.2 Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all requirements of an Eligible Assignee under the Credit Agreement, (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Credit Agreement and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and to purchase the Assigned Interest on the basis of which it has made such analysis and decision, and (v) if it is a Non-US Lender, attached to the Assignment is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at that time, continue to make its own credit decisions in taking or not taking action under the Credit Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Credit Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignee whether such amounts have accrued prior to or on or after the Effective Date. The Assignor and the Assignee shall make all appropriate adjustments in payments by Administrative Agent for periods prior to the Effective Date or with respect to the making of this assignment directly between themselves.

3. Post-Default. After the occurrence and during the continuation of an Event of Default, the Company may identify, by written to notice to the Administrative Agent (and the Administrative Agent shall promptly notify the Lenders), up to two banks, financial institutions or other entities who shall not be permitted to be an Eligible

Assignee during the continuation of such Event of Default.

4. General Provisions. This Assignment shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment by telecopy shall be effective as delivery of a manually executed

counterpart of this Assignment. This Assignment shall be governed by, and construed in accordance with, the laws of the State of New York without regard to conflict of laws principles thereof.

EXHIBIT F

CERTIFICATE RE: NON-BANK STATUS

Reference is made to the Credit and Guaranty Agreement, dated as of May 21, 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, or otherwise renewed, refinanced or replaced from time to time (including subsequent or successive renewals, refinancings or replacements, and pursuant to one or more agreements or facilities), the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among Douglas Dynamics Holdings, Inc., a Delaware corporation ("Holdings"), Douglas Dynamics, L.L.C., a Delaware limited liability company and a direct wholly-owned Subsidiary of Holdings (the "Company" or the "Borrower"), Fisher, LLC, a Delaware limited liability company ("Fisher") and Douglas Dynamics Finance Company, a Delaware corporation ("DD Finance," and together with Fisher and Holdings, each a "Guarantor" and collectively the "Guarantors") the banks and financial institutions listed on the signature pages thereof (together with their respective successors and assigns, each individually referred to herein as a "Lender" and collectively as "Lenders"), Credit Suisse, Cayman Islands Branch ("Credit Suisse"), as administrative agent for the Lenders (in such capacity, "Administrative Agent") and as collateral agent for the Lenders (in such capacity, "Collateral Agent").

Pursuant to Section 2.19(c) of the Credit Agreement, the undersigned hereby certifies that it is not a "bank" or other Person described in Section 881(c)(3) of the Internal Revenue Code of 1986, as amended. Attached hereto are two original copies of Internal Revenue Service Form W-8 (or its successor form) properly completed and duly executed.

[NAME OF LENDER]

By: _____
Name:
Title:

EXHIBIT G

SOLVENCY CERTIFICATE

THE UNDERSIGNED HEREBY CERTIFIES AS FOLLOWS:

1. I am the Chief Financial Officer of Douglas Dynamics Holdings, Inc., a Delaware corporation ("Holdings") and Douglas Dynamics, L.L.C., a Delaware limited liability company (the "Company" or the "Borrower").

2. Reference is made to the Credit and Guaranty Agreement, dated as of May 21, 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, or otherwise renewed, refinanced or replaced from time to time (including subsequent or successive renewals, refinancings or replacements, and pursuant to one or more agreements or facilities), the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among Holdings, the Company, Fisher, LLC, a Delaware limited liability company ("Fisher") and Douglas Dynamics Finance Company, a Delaware corporation ("DD Finance," and together with Fisher and Holdings, each a "Guarantor" and collectively the "Guarantors") the banks and financial institutions listed on the signature pages thereof (together with their respective successors and assigns, each individually referred to herein as a "Lender" and collectively as "Lenders"), Credit Suisse, Cayman Islands Branch ("Credit Suisse"), as administrative agent for the Lenders (in such capacity, "Administrative Agent") and as collateral agent for the Lenders (in such capacity, "Collateral Agent").

3. I have reviewed the terms of Sections 3 and 4 of the Credit Agreement and the definitions and provisions contained in the Credit Agreement relating thereto, and, in my opinion, have made, or have caused to be made under my supervision, such examination or investigation as is necessary to enable me to express an informed opinion as to the matters referred to herein.

4. Based upon my review and examination described in paragraph 3 above, I certify, solely in my capacity as the chief financial officer of Holdings and Company, that, as of the date hereof, after giving effect to the incurrence of the Obligations under the Credit Documents, the borrowings under the Revolving Credit Facility and the other transactions contemplated by the Credit Documents, (a) Holdings and its Subsidiaries (on a consolidated basis) are and will be Solvent and (b) Borrower is and will be Solvent.

The foregoing certifications are made and delivered as of [ ], 2007.

DOUGLAS DYNAMICS HOLDINGS, INC.
DOUGLAS DYNAMICS, L.L.C.

By: _____
Name:
Title: Chief Financial Officer

EXHIBIT H

COUNTERPART AGREEMENT

This COUNTERPART AGREEMENT, dated [mm/dd/yyyy] (this "Counterpart Agreement"), is delivered pursuant to that certain Credit and Guaranty Agreement, dated as of May 21, 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, or otherwise renewed, refinanced or replaced from time to time (including subsequent or successive renewals, refinancings or replacements, and pursuant to one or more agreements or facilities), the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among Douglas Dynamics Holdings, Inc., a Delaware corporation ("Holdings"), Douglas Dynamics, L.L.C., a Delaware limited liability company and a direct wholly-owned Subsidiary of Holdings (the "Company" or the "Borrower"), Fisher, LLC, a Delaware limited liability company ("Fisher") and Douglas Dynamics Finance Company, a Delaware corporation ("DD Finance," and together with Fisher and Holdings, each a "Guarantor" and collectively the "Guarantors") the banks and financial institutions listed on the signature pages thereof (together with their respective successors and assigns, each individually referred to herein as a "Lender" and collectively as "Lenders"), Credit Suisse, Cayman Islands Branch ("Credit Suisse"), as administrative agent for the Lenders (in such capacity, "Administrative Agent") and as collateral agent for the Lenders (in such capacity, "Collateral Agent").

Section 1. Pursuant to Section 5.10 of the Credit Agreement, the undersigned hereby:

(a) agrees that this Counterpart Agreement may be attached to the Credit Agreement and that by the execution and delivery hereof, the undersigned becomes a Guarantor under the Credit Agreement and agrees to be bound by all of the terms thereof;

(b) represents and warrants that each of the representations and warranties set forth in the Credit Agreement and each other Credit Document and applicable to the undersigned is true and correct both before and after giving effect to this Counterpart Agreement, except to the extent that any such representation and warranty relates solely to any earlier date, in which case such representation and warranty is true and correct as of such earlier date;

(c) no event has occurred or is continuing as of the date hereof, or will result from the transactions contemplated hereby on the date hereof, that would constitute an Event of Default or a Default;

(d) irrevocably and unconditionally guarantees the due and punctual payment in full of all Obligations when the same shall become due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. § 362(a)) and in accordance with Section 7 of the Credit Agreement; and

(e) (i) agrees that this Counterpart Agreement may be attached to the Pledge and Security Agreement, (ii) agrees that the undersigned will comply with all the terms and conditions of the Pledge and Security Agreement as if it were an original signatory thereto, (iii) grants to Secured Parties (as such term is defined in the Pledge and Security Agreement) a security interest in all of the undersigned's right, title and interest in, to and under all personal property, subject to the limited exclusions set forth in Section 2.3 of the Pledge and Security Agreement, of the undersigned including, but not limited to the following, in each case whether now owned or existing or hereafter acquired or arising and wherever located (as each of the following is defined in the Pledge and Security Agreement and all of which being hereinafter collectively referred to as the "Collateral"): Accounts; Chattel Paper; Documents; General Intangibles; Goods; Instruments; Insurance; Intellectual Property; Investment Related Property; Letter of Credit Rights; Money; Receivables and Receivable Records; Commercial Tort Claims; to the extent not otherwise included in the foregoing, all Collateral Records, Collateral Support and Supporting Obligations relating to any of the foregoing; and to the extent not otherwise included in the foregoing, all Proceeds, products, accessions, rents and profits of or in respect of any of the foregoing, and (iv) delivers to Collateral Agent supplements to all schedules attached to the Pledge and Security Agreement. All such Collateral shall be deemed to be

part of the "Collateral" and hereafter subject to each of the terms and conditions of the Pledge and Security Agreement.

Section 2. The undersigned agrees from time to time, upon request of Administrative Agent, to take such additional actions and to execute and deliver such additional documents and instruments as Administrative Agent may request to effect the transactions contemplated by, and to carry out the intent of, this Counterpart Agreement. Neither this Counterpart Agreement nor any term hereof may be changed, waived, discharged or terminated, except by an instrument in writing signed by the party (including, if applicable, any party required to evidence its consent to or acceptance of this Counterpart Agreement) against whom enforcement of such change, waiver, discharge or termination is sought. Any notice or other communication herein required or permitted to be given shall be given pursuant to Section 10.1 of the Credit Agreement, and all for purposes thereof, the notice address of the undersigned shall be the address as set forth on the signature page hereof. In case any provision in or obligation under this Counterpart Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

THIS COUNTERPART AGREEMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES THEREOF.

[Signature page follows]

IN WITNESS WHEREOF, the undersigned has caused this Counterpart Agreement to be duly executed and delivered by its duly authorized officer as of the date above first written.

[NAME OF SUBSIDIARY]

By: _____
Name:
Title:

Address for Notices:

_____
_____
_____
Attention:

Telecopier

with a copy to:

_____

_____

_____

Attention:
Telecopier

ACKNOWLEDGED AND ACCEPTED,
as of the date above first written:

CREDIT SUISSE,
acting through its Cayman Islands Branch,
as Administrative Agent and as Collateral Agent

By: _____
Name:
Title:

By: _____
Name:
Title:

EXHIBIT I

PLEDGE AND SECURITY AGREEMENT

EXECUTION VERSION

TERM PLEDGE AND SECURITY AGREEMENT

dated as of May 21, 2007

among

DOUGLAS DYNAMICS, L.L.C.
DOUGLAS DYNAMICS FINANCE COMPANY
FISHER, LLC
DOUGLAS DYNAMICS HOLDINGS, INC.

EACH OF THE OTHER GRANTORS PARTY HERETO

and

CREDIT SUISSE, CAYMAN ISLANDS BRANCH,

as Collateral Agent

TABLE OF CONTENTS

TERM PLEDGE AND SECURITY AGREEMENT, dated as of May 21, 2007 (this "**Agreement**"), between **EACH OF THE UNDERSIGNED**, whether as an original signatory hereto or as an Additional Grantor (as herein defined) (each, a "**Grantor**"), and **CREDIT SUISSE, CAYMAN ISLANDS BRANCH** ("**Credit Suisse**"), as collateral agent for the Secured Parties (as herein defined) (in such capacity as collateral agent, the "**Collateral Agent**").

RECITALS:

WHEREAS, reference is made to that certain Credit and Guaranty Agreement dated as of May 21, 2007 (as amended, restated, supplemented, refinanced or otherwise modified from time to time in accordance with its terms, the "**Credit Agreement**"), by and among Douglas Dynamics Holdings, Inc., a Delaware corporation ("**Holdings**"), Douglas Dynamics, L.L.C., a Delaware limited liability company and a direct wholly-owned Subsidiary of Holdings (the "**Company**" or the "**Borrower**"), Fisher, LLC, a Delaware limited liability company ("**Fisher**") and Douglas Dynamics Finance Company, a Delaware corporation ("**DD Finance**," and together with Fisher and Holdings, each a "**Guarantor**" and collectively the "**Guarantors**") the banks and financial institutions listed on the signature pages hereof (together with their respective successors and assigns, each individually referred to herein as a "**Lender**" and collectively as "**Lenders**"), Credit Suisse, as administrative agent for the Lenders (in such capacity, "**Administrative Agent**") and as collateral agent for the Lenders (in such capacity, the "**Collateral Agent**");

WHEREAS, pursuant to the Credit Agreement, the lenders thereunder have extended or will extend certain Loans the Borrower, which Obligations, to be guaranteed by Holdings, Fisher, DD Finance and future Domestic Subsidiaries of the Company (such parties, together with Company, each a "**Credit Party**," and collectively, the "**Credit Parties**") and, in connection therewith, each Grantor has agreed to secure such Grantor's obligations under the Credit Documents with a First Priority security interest in the Term Priority Collateral and a Second Priority security interest in the ABL Priority Collateral, each in favor of the ABL Collateral Agent;

WHEREAS, the Company has also entered into the certain Credit and Guaranty Agreement dated as of May 21, 2007 (as amended, restated, supplemented, refinanced or otherwise modified from time to time in accordance with its terms, the "**ABL Credit Agreement**"), by and among the Company, as borrower, Holdings, Fisher and DD Finance, as guarantors, the banks and financial institutions listed on the signature pages thereof, Credit Suisse, as administrative agent and JPMorgan Chase Bank, N.A., as collateral agent, whereby the lenders thereunder have extended or will extend certain loans to the Company, to be guaranteed by Holdings and in connection therewith, each of the Company, Holdings and the Subsidiary Guarantors thereunder have agreed to secure such party's obligations thereunder with a First Priority Security Interest in the ABL Priority Collateral and a Second Priority security interest in the Term Priority Collateral;

WHEREAS, concurrently herewith, the Collateral Agent hereunder and the ABL Collateral Agent have entered into an Intercreditor Agreement which provides for, inter alia, the relative priorities of the security interests granted herein and in the ABL Security Agreement;

WHEREAS, in consideration of the extensions of credit and other accommodations of Lenders as set forth in the Credit Agreement, each Grantor has agreed to secure such Grantor's obligations under the Credit Documents as set forth herein; and

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NOW, THEREFORE, in consideration of the premises and the agreements, provisions and covenants herein contained, each Grantor and the Collateral Agent agree as follows:

SECTION 1. DEFINITIONS.

1.1 General Definitions. In this Agreement, the following terms shall have the following meanings:

"ABL Collateral Agent" means JPMorgan Chase Bank, N.A., as collateral agent under the ABL Security Agreement, or any permitted successor, replacement or assign.

"ABL Credit Agreement" shall have the meaning assigned to such term in the recitals.

"ABL Credit Documents" shall mean the ABL Credit Agreement and the other "Credit Documents" as defined in the ABL Credit Agreement.

"ABL Security Agreement" means that certain ABL Pledge and Security Agreement dated as of the date hereof, among the Company, the other Grantors party hereto, and JPMorgan Chase Bank, N.A., as collateral agent thereunder.

"Account Debtor" shall mean each Person who is obligated on a Receivable or any Supporting Obligation related thereto.

"Accounts" shall mean all "accounts" as defined in Article 9 of the UCC.

"Agent" shall have the meaning assigned to such term in the Credit Agreement.

"Agreement" shall have the meaning set forth in the preamble.

"Additional Grantors" shall have the meaning set forth in Section 5.3.

"Assigned Agreements" shall mean, with respect to any Grantor, all agreements and contracts to which such Grantor is a party as of the date hereof, or to which such Grantor becomes a party after the date hereof.

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

"Cash Proceeds" shall have the meaning assigned in Section 7.7.

"Chattel Paper" shall mean all "chattel paper" as defined in Article 9 of the UCC, including, without limitation, "electronic chattel paper" or "tangible chattel paper", as each term is defined in Article 9 of the UCC.

"Collateral" shall have the meaning assigned in Section 2.1.

"Collateral Account" shall mean any account established by the Collateral Agent.

"Collateral Agent" shall have the meaning set forth in the preamble.

"Collateral Records" shall mean books, records, ledger cards, files, correspondence, customer lists, blueprints, technical specifications, manuals, computer software, computer printouts, tapes, disks and related data processing software and similar items that at any time evidence or contain information relating to any of the Collateral or are otherwise necessary or helpful in the collection thereof or realization thereupon.

"Collateral Support" shall mean all property (real or personal) assigned, hypothecated or otherwise securing any Collateral and shall include any security agreement or other agreement granting a lien or security interest in such real or personal property.

"Commercial Tort Claims" shall mean all "commercial tort claims" as defined in Article 9 of the UCC, including, without limitation, all commercial tort claims listed on Schedule 4.6 (as such schedule may be amended or supplemented from time to time).

"Commodities Accounts" (i) shall mean all "commodity accounts" as defined in Article 9 of the UCC and (ii) shall include, without limitation, all of the accounts listed on Schedule 4.4 under the heading "**Commodities Accounts**" (as such schedule may be amended or supplemented from time to time).

"Company" shall have the meaning set forth in the recitals hereto.

"Controlled Foreign Corporation" shall mean "controlled foreign corporation" as defined in the Tax Code.

"Copyright Licenses" shall mean any and all agreements providing for the granting of any right in or to Copyrights (whether any Grantor is licensee or licensor thereunder) including, without limitation, each agreement referred to in Schedule 4.5 (B) (as such schedule may be amended or supplemented from time to time).

"Copyrights" shall mean all United States, and foreign copyrights (including Community designs), including but not limited to copyrights in software and databases, and all Mask Works (as defined under 17 U.S.C. 901 of the U.S. Copyright Act), whether registered or unregistered, and, with respect to any and all of the foregoing: (i) all registrations and applications therefor including, without limitation, the registrations and applications referred to in Schedule 4.5(A) (as such schedule may be amended or supplemented from time to time), (ii) all extensions and renewals thereof, (iii) all rights corresponding thereto throughout the world, and (iv) all rights to sue for past, present and future infringements thereof.

"Credit Agreement" shall have the meaning set forth in the recitals hereto.

"Credit Documents" shall have the meaning assigned to such term in the Credit Agreement.

"Deposit Accounts" (i) shall mean all "deposit accounts" as defined in Article 9 of the UCC and (ii) shall include, without limitation, all of the accounts listed on Schedule 4.4 under the heading "Deposit Accounts" (as such schedule may be amended or supplemented from time to time).

"Documents" shall mean all "documents" as defined in Article 9 of the UCC.

"Equipment" shall mean: (i) all "equipment" as defined in Article 9 of the UCC, (ii) all machinery, manufacturing equipment, data processing equipment, computers, office equipment, furnishings, furniture, appliances, fixtures and tools (in each case, regardless of whether characterized as equipment under the UCC) and (iii) all accessions or additions thereto, all parts thereof, whether or not at any time of determination incorporated or installed therein or attached thereto, and all replacements therefor, wherever located, now or hereafter existing, including any fixtures.

"Event of Default" shall have the meaning assigned to such term in the Credit Agreement.

"**First Priority"** shall have the meaning assigned to such term in the Credit Agreement.

"General Intangibles" (i) shall mean all "general intangibles" as defined in Article 9 of the UCC, including "payment intangibles" also as defined in Article 9 of the UCC and (ii) shall include, without limitation, all interest rate or currency protection or hedging arrangements, all tax refunds, all licenses, permits, concessions and authorizations, all Assigned Agreements and all Intellectual Property (in each case, regardless of whether characterized as general intangibles under the UCC).

"Goods" (i) shall mean all "goods" as defined in Article 9 of the UCC and (ii) shall include, without limitation, all Inventory and Equipment (in each case, regardless of whether characterized as goods under the UCC).

"Grantors" shall have the meaning set forth in the preamble.

"Holdings" shall have the meaning set forth in the recitals hereto.

"Instruments" shall mean all "instruments" as defined in Article 9 of the UCC.

"Insurance" shall mean (i) all insurance policies covering any or all of the Collateral (regardless of whether the Collateral Agent is the loss payee thereof) and (ii) any key man life insurance policies.

"Intellectual Property" shall mean, collectively, the Copyrights, the Copyright Licenses, the Patents, the Patent Licenses, the Trademarks, the Trademark Licenses, the Trade Secrets, and the Trade Secret Licenses.

"Intercreditor Agreement" shall mean the Intercreditor Agreement dated the date hereof, among the Company, the Collateral Agent hereunder and the ABL Collateral Agent, as amended, restated, supplemented or otherwise modified from time to time in accordance with its terms.

"Inventory" shall mean (i) all "inventory" as defined in Article 9 of the UCC and (ii) all goods held for sale or lease or to be furnished under contracts of service or so leased or furnished, all raw materials, work in process, finished goods, and materials used or consumed in the manufacture, packing, shipping, advertising, selling, leasing, furnishing or production of such inventory or otherwise used or consumed in any Grantor's business; all goods in which any Grantor has an interest in mass or a joint or other interest or right of any kind; and all goods which are returned to or repossessed by any Grantor, all computer programs embedded in any

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goods and all accessions thereto and products thereof (in each case, regardless of whether characterized as inventory under the UCC).

"Investment Accounts" shall mean the Collateral Account, Securities Accounts, Commodities Accounts and Deposit Accounts.

"Investment Related Property" shall mean: (i) all "investment property" (as such term is defined in Article 9 of the UCC) and (ii) all of the following (regardless of whether classified as investment property under the UCC): all Pledged Equity Interests, Pledged Debt, the Investment Accounts and certificates of deposit.

"Lender" shall have the meaning assigned to such term in the Credit Agreement.

"Letter of Credit Right" shall mean "letter-of-credit right" as defined in Article 9 of the UCC.

"Lien" shall have the meaning assigned to such term in the Credit Agreement.

"Material Adverse Effect" shall have the meaning assigned to such term in the Credit Agreement.

"Money" shall mean "money" as defined in the UCC.

"Obligations" shall have the meaning assigned to such term in the Credit Agreement.

"Patent Licenses" shall mean all agreements providing for the granting of any right in or to Patents (whether any Grantor is licensee or licensor thereunder) including, without limitation, each agreement referred to in Schedule 4.5(D) (as such schedule may be amended or supplemented from time to time).

"Patents" shall mean all United States and foreign patents and certificates of invention, or similar industrial property rights, and applications for any of the foregoing, including, but not limited to: (i) each patent and patent application referred to in Schedule 4.5(C) hereto (as such schedule may be amended or supplemented from time to time), (ii) all reissues, divisions, continuations, continuations-in-part, extensions, renewals, and reexaminations thereof, (ii) all rights corresponding thereto throughout the world, (ii) all inventions and improvements described therein, and (iv) all rights to sue for past, present and future infringements thereof, (v) all licenses, claims, damages, and proceeds of suit arising therefrom.

"Permitted Lien" shall have the meaning given to such term in the Credit Agreement.

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

"Pledge Supplement" shall mean any supplement to this agreement in substantially the form of Exhibit A.

"Pledged Debt" shall mean all Indebtedness owed to any Grantor, regardless of whether evidenced by instrument or promissory note, including, without limitation, all Indebtedness described on Schedule 4.4(A) under the heading "Pledged Debt" (as such schedule may be amended or supplemented from time to time), issued by the obligors named therein, the instruments evidencing such Indebtedness, and all interest, cash, instruments and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such Indebtedness.

"Pledged Equity Interests" shall mean all Pledged Stock, Pledged LLC Interests, Pledged Partnership Interests and Pledged Trust Interests.

"Pledged LLC Interests" shall mean all interests in any limited liability company including, without limitation, all limited liability company interests listed on Schedule 4.4(A) under the heading "Pledged LLC Interests" (as such schedule may be amended or supplemented from time to time) and the certificates, if any, representing such limited liability company interests and any interest of any Grantor on the books and records of such limited liability company or on the books and records of any securities intermediary pertaining to such interest and all dividends, distributions, cash, warrants, rights, options, instruments, securities and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such limited liability company interests.

"Pledged Partnership Interests" shall mean all interests in any general partnership, limited partnership, limited liability partnership or other partnership including, without limitation, all partnership interests listed on Schedule 4.4(A) under the heading "Pledged Partnership Interests" (as such schedule may be amended or supplemented from time to time) and the certificates, if any, representing such partnership interests and any interest of any Grantor on the books and records of such partnership or on the books and records of any securities intermediary pertaining to such interest and all dividends, distributions, cash, warrants, rights, options, instruments, securities and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such partnership interests.

"Pledged Stock" shall mean all shares of capital stock owned by any Grantor, including, without limitation, all shares of capital stock described on Schedule 4.4(A) under the heading "Pledged Stock" (as such schedule may be amended or supplemented from time to time), and the certificates, if any, representing such shares and any interest of any Grantor in the entries on the books of the issuer of such shares or on the books of any securities intermediary pertaining to such shares, and all dividends, distributions, cash, warrants, rights, options, instruments, securities and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such shares.

"Pledged Trust Interests" shall mean all interests in a Delaware business trust or other trust including, without limitation, all trust interests listed on Schedule 4.4(A) under the heading "Pledged Trust Interests" (as such schedule may be amended or supplemented from time to time) and the certificates, if any, representing such trust interests and any interest of any Grantor on the books and records of such trust or on the books and records of any securities intermediary pertaining to such interest and all dividends, distributions, cash, warrants, rights, options, instruments, securities and other property or proceeds from time to time received,

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receivable or otherwise distributed in respect of or in exchange for any or all of such trust interests.

"Proceeds" shall mean: (i) all "proceeds" as defined in Article 9 of the UCC, (ii) payments or distributions made with respect to any Investment Related Property and (iii) whatever is receivable or received when Collateral or proceeds are sold, leased, licensed, exchanged, collected or otherwise disposed of, whether such disposition is voluntary or involuntary.

"Receivables" shall mean all rights to payment, whether or not earned by performance, for goods or other property sold, leased, licensed, assigned or otherwise disposed of, or services rendered or to be rendered, including, without limitation all such rights constituting or evidenced by any Account, Chattel Paper, Instrument, General Intangible or Investment Related Property, together with all of Grantor's rights, if any, in any goods or other property giving rise to such right to payment and all Collateral Support and Supporting Obligations related thereto and all Receivables Records.

"Receivables Records" shall mean (i) all original copies of all documents, instruments or other writings or electronic records or other Records evidencing the Receivables, (ii) all books, correspondence, credit or other files, Records, ledger sheets or cards, invoices, and other papers relating to Receivables, including, without limitation, all tapes, cards, computer tapes, computer discs, computer runs, record keeping systems and other papers and documents relating to the Receivables, whether in the possession or under the control of any Grantor or any computer bureau or agent from time to time acting for any Grantor or otherwise, (iii) all evidences of the filing of financing statements and the registration of other instruments in connection therewith, and amendments, supplements or other modifications thereto, notices to other creditors or secured parties, and certificates, acknowledgments, or other writings, including, without limitation, lien search reports, from filing or other registration officers, (iv) all credit information, reports and memoranda relating thereto and (v) all other written or nonwritten forms of information related in any way to the foregoing or any Receivable.

"Record" shall have the meaning specified in Article 9 of the UCC.

"Refinance" means, in respect of any indebtedness, to refinance, extend, renew, defease, amend, modify, supplement, restructure, replace, refund or repay, or to issue other indebtedness, in exchange or replacement for, such indebtedness in whole or in part. **"Refinanced"** and **"Refinancing"** shall have correlative meanings.

"Secured Obligations" shall have the meaning assigned in Section 3.1.

"Secured Parties" shall mean the Collateral Agent, each Agent and the Lenders and shall include, without limitation, all former Lenders to the extent that any Obligations owing to such Persons were incurred while such Persons were Lenders and such Obligations have not been paid or satisfied in full.

"Securities" shall mean any stock, shares, partnership interests, voting trust certificates, certificates of interest or participation in any profit-sharing agreement or arrangement, options, warrants, bonds, debentures, notes, or other evidences of indebtedness, secured or unsecured, convertible, subordinated or otherwise, or in general any instruments commonly known as "securities" or any certificates of interest, shares or participations in

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temporary or interim certificates for the purchase or acquisition of, or any right to subscribe to, purchase or acquire, any of the foregoing.

"Securities Accounts" (i) shall mean all "securities accounts" as defined in Article 8 of the UCC and (ii) shall include, without limitation, all of the accounts listed on Schedule 4.4(A) under the heading "Securities Accounts" (as such schedule may be amended or supplemented from time to time).

"Subsidiary Guarantor" shall mean any Subsidiary of the Company that becomes a Guarantor in accordance with Section 5.10 of the Credit Agreement.

"Supporting Obligation" shall mean all "supporting obligations" as defined in Article 9 of the UCC.

"Tax Code" shall mean the United States Internal Revenue Code of 1986, as amended from time to time.

"Trademark Licenses" shall mean any and all agreements providing for the granting of any right in or to Trademarks (whether any Grantor is licensee or licensor thereunder) including, without limitation, each agreement referred to in Schedule 4.5(F) (as such schedule may be amended or supplemented from time to time).

"Trademarks" shall mean all United States, and foreign trademarks, trade names, corporate names, company names, business names, fictitious business names, Internet domain names, service marks, certification marks, collective marks, logos, other source or business identifiers, designs and general intangibles of a like nature, all registrations and applications for any of the foregoing including, but not limited to: (i) the registrations and applications referred to in Schedule 4.5 (E) (as such schedule may be amended or supplemented from time to time), (ii) all extensions or renewals of any of the foregoing, (iii) all of the goodwill of the business connected with the use of and symbolized by the foregoing, and (iv) the right to sue for past, present and future infringement or dilution of any of the foregoing or for any injury to goodwill.

"Trade Secret Licenses" shall mean any and all agreements providing for the granting of any right in or to Trade Secrets (whether any Grantor is licensee or licensor thereunder) including, without limitation, each agreement referred to in Schedule 4.5 (G) (as such schedule may be amended or supplemented from time to time).

"Trade Secrets" shall mean all trade secrets and all other confidential or proprietary information and know-how whether or not such Trade Secret has been reduced to a writing or other tangible form, including all documents and things embodying, incorporating, or referring in any way to such Trade Secret, including but not limited to the right to sue for past, present and future misappropriation or other violation of any Trade Secret.

"UCC" shall mean the Uniform Commercial Code as in effect from time to time in the State of New York or, when the context implies, the Uniform Commercial Code as in effect from time to time in any other applicable jurisdiction.

"United States" shall mean the United States of America.

1.2 Definitions; Interpretation. All capitalized terms used herein (including the preamble and recitals hereto) and not otherwise defined herein shall have the meanings ascribed thereto in the Credit Agreement or, if not defined therein, in the UCC. References to "Sections," "Exhibits" and "Schedules" shall be to Sections, Exhibits and Schedules, as the case may be, of this Agreement unless otherwise specifically provided. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose or be given any substantive effect. Any of the terms defined herein may, unless the context otherwise requires, be used in the singular or the plural, depending on the reference. The use herein of the word "include" or "including", when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not nonlimiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter. If any conflict or inconsistency exists between this Agreement and the Credit Agreement, the Credit Agreement shall govern. If any conflict or inconsistency exists between this Agreement, the ABL Security Agreement and the Intercreditor Agreement with respect to the rights and obligations of the Collateral Agent hereunder and the ABL Collateral Agent, the Intercreditor Agreement shall control. All references herein to provisions of the UCC shall include all successor provisions under any subsequent version or amendment to any Article of the UCC.

SECTION 2. GRANT OF SECURITY.

2.1 Grant of Security. Each Grantor hereby grants to the Collateral Agent for its benefit and for the benefit of the other Secured Parties, a security interest in and continuing lien on all of such Grantor's right, title and interest in, to and under all personal property of such Grantor including, but not limited to the following, in each case whether now owned or existing or hereafter acquired or arising and wherever located (all of which being hereinafter collectively referred to as the **"Collateral"**):

(a) Accounts;

(b) Chattel Paper;

(c) Documents;

(d) General Intangibles;

(e) Goods;

(f) Instruments;

(g) Insurance;

(h) Intellectual Property;

(i) Investment Related Property;

(j) Letter of Credit Rights;

(k) Money;

(l) Receivables and Receivable Records;

(m) Commercial Tort Claims;

(n) to the extent not otherwise included above, all Collateral Records, Collateral Support and Supporting Obligations relating to any of the foregoing; and

to the extent not otherwise included above, all Proceeds, products, accessions, rents and profits of or in respect of any of the foregoing.

2.2 Intercreditor Agreement. Notwithstanding anything to the contrary contained in this Agreement, the priorities with respect to all security interests granted to the Collateral Agent hereunder and under the other Credit Documents and to the ABL Collateral Agent under the ABL Security Agreement and the other ABL Credit Documents shall be governed by the terms and provisions of the Intercreditor Agreement. In the event of any conflict between the terms of the Intercreditor Agreement and this Agreement, the terms of the Intercreditor Agreement shall govern and control.

2.3 Certain Limited Exclusions. Notwithstanding anything herein to the contrary, in no event shall the security interest granted under Section 2.1 hereof attach to (a) any lease, license, contract, property rights or agreement to which any Grantor is a party or any of its rights or interests thereunder if and for so long as the grant

of such security interest shall constitute or result in (i) the abandonment, invalidation or unenforceability of any right, title or interest of any Grantor therein or (ii) in a breach or termination pursuant to the terms of, or a default under, any such lease, license, contract property rights or agreement (other than to the extent that any such term would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the UCC (or any successor provision or provisions) of any relevant jurisdiction or any other applicable law (including the Bankruptcy Code) or principles of equity), provided however that, in the case of either (i) or (ii) above, such security interest shall attach immediately at such time as the condition causing such abandonment, invalidation or unenforceability shall be remedied and to the extent severable, shall attach immediately to any portion of such Lease, license, contract, property rights or agreement that does not result in any of the consequences specified in (i) or (ii) above; or (b) any of the outstanding capital stock of a Controlled Foreign Corporation in excess of 66% of the voting power of all classes of capital stock of such Controlled Foreign Corporation entitled to vote; provided that immediately upon the amendment of the Tax Code to allow the pledge of a greater percentage of the voting power of capital stock in a Controlled Foreign Corporation without adverse tax consequences, the Collateral shall include, and the security interest granted by each Grantor shall attach to, such greater percentage of capital stock of each Controlled Foreign Corporation.

SECTION 3. SECURITY FOR OBLIGATIONS; GRANTORS REMAIN LIABLE.

3.1 Security for Obligations. This Agreement secures, and the Collateral is collateral security for, the prompt and complete payment or performance in full when due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including the payment of amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. §362(a) (and any successor provision thereof)), of all Obligations with respect to every Grantor (the **"Secured Obligations"**).

3.2 Continuing Liability Under Collateral. Notwithstanding anything herein to the contrary, (i) each Grantor shall remain liable for all obligations under the Collateral and nothing contained herein is intended or shall be a delegation of duties to the Collateral Agent or any Secured Party, (ii) each Grantor shall remain liable under each of the agreements included in the Collateral, including, without limitation, any agreements relating to Pledged Partnership Interests or Pledged LLC Interests, to perform all of the obligations undertaken by it thereunder all in accordance with and pursuant to the terms and provisions thereof and neither the Collateral Agent nor any Secured Party shall have any obligation or liability under any of such agreements by reason of or arising out of this Agreement or any other document related thereto nor shall the Collateral Agent nor any Secured Party have any obligation to make any inquiry as to the nature or sufficiency of any payment received by it or have any obligation to take any action to collect or enforce any rights under any agreement included in the Collateral, including, without limitation, any agreements relating to Pledged Partnership Interests or Pledged LLC Interests, and (iii) the exercise by the Collateral Agent of any of its rights hereunder shall not release any Grantor from any of its duties or obligations under the contracts and agreements included in the Collateral.

SECTION 4. REPRESENTATIONS AND WARRANTIES AND COVENANTS.

4.1 Generally.

(a) Representations and Warranties. Each Grantor hereby represents and warrants, on the Closing Date and on each Credit Date, that:

(i) it owns the Collateral purported to be owned by it or otherwise has the rights it purports to have in each item of Collateral and, as to all Collateral whether now existing or hereafter acquired, will continue to own or have such rights in each item of the Collateral, in each case free and clear of any and all Liens, rights or claims of all other Persons other than Permitted Liens;

(ii) it has indicated on Schedule 4.1(A)(as such schedule may be amended or supplemented from time to time): (A) the type of organization of such Grantor, (B) the jurisdiction of organization of such Grantor, (C) its organizational identification number, if any, and (D) the jurisdiction where the chief executive office or its sole place of business is, and for the one-year period preceding the date hereof has been, located;

(iii) the full legal name of such Grantor is as set forth on Schedule 4.1(A) and it has not done in the last five (5) years, and does not do, business under any other name (including any trade-name or fictitious business name) except for those names set forth on Schedule 4.1(B) (as such schedule may be amended or supplemented from time to time);

(iv) except as provided on Schedule 4.1(C), it has not changed its name, jurisdiction of organization, chief executive office or sole place of business (or principal residence if such Grantor is a natural person) or its corporate structure in any way (e.g., by merger, consolidation, change in corporate form or otherwise) within the past five (5) years;

(v) upon the filing of all UCC financing statements naming each Grantor as "debtor" and the Collateral Agent as "secured party" and describing the Collateral in the filing offices set forth opposite such Grantor's name on Schedule 4.1(D)

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hereof (as such schedule may be amended or supplemented from time to time), upon execution of a control agreement, in form and substance satisfactory to the Collateral Agent, with respect to any Deposit Account, upon consent of the issuer with respect to Letter of Credit Rights, and to the extent not subject to Article 9 of the UCC, upon recordation of the security interests granted hereunder in Patents, Trademarks and Copyrights in the applicable intellectual property registries, including but not limited to the United States Patent and Trademark Office and the United States Copyright Office, the security interests granted to the Collateral Agent hereunder constitute valid and perfected First Priority or Second Priority Liens (in accordance with the Intercreditor Agreement (subject in the case of priority only to Permitted Liens and to the rights of the United States government (including any agency or department thereof) with respect to United States government Receivables) on all of the Collateral;

(vi) other than the financing statements filed in favor of the Collateral Agent, no effective UCC financing statement, fixture filing or other instrument similar in effect under any applicable law covering all or any part of the Collateral is on file in any filing or recording office except for (A) financing statements for which proper termination statements have been delivered to the Collateral Agent for filing, (B) financing statements in favor of the ABL Collateral Agent and (C) financing statements filed in connection with other Permitted Liens, and other than the filings in favor of the Collateral Agent and the ABL Collateral Agent, no effective filing with respect to a Lien covering all or any part of the Collateral is on file with the United States Patent and Trademark Office or United States Copyright Office or any other Governmental Authority;

(vii) no authorization, approval or other action by, and no notice to or filing with, any Governmental Authority or regulatory body is required for either (A) the pledge or grant by any Grantor of the Liens purported to be created in favor of the Collateral Agent hereunder or (B) the exercise by Collateral Agent of any rights or remedies in respect of any Collateral (whether specifically granted or created hereunder or created or provided for by applicable law), except (1) for the filings contemplated by clause (vii) above and (2) as may be required, in connection with the disposition of any Investment Related Property, by laws generally affecting the offering and sale of Securities;

(viii) all information supplied by any Grantor with respect to any of the Collateral (in each case taken as a whole with respect to any particular Collateral) is accurate and complete in all material respects;

(ix) none of the Collateral constitutes, or is the Proceeds of, "farm products" (as defined in the UCC); and

(x) it does not own any "as extracted collateral" (as defined in the UCC) or any timber to be cut.

(b) Covenants and Agreements. Each Grantor hereby covenants and agrees that:

(i) except for the security interest created by this Agreement, it shall not create or suffer to exist any Lien upon or with respect to any of the Collateral,

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except the Lien of the ABL Collateral Agent and other Permitted Liens, and such Grantor shall defend the Collateral against all Persons at any time claiming any interest therein;

(ii) it shall not change such Grantor's name, identity, corporate structure (e.g., by merger, consolidation, change in corporate form or otherwise), sole place of business (or principal residence if such Grantor is a natural person), chief executive office, type of organization or jurisdiction of organization unless it shall have (A) contemporaneously therewith notified the Collateral Agent in writing, by executing and delivering to the Collateral Agent a completed Pledge Supplement, substantially in the form of Exhibit A attached hereto, together with all Supplements to Schedules thereto, and (B) taken all actions necessary or advisable to maintain the continuous validity, perfection and the priority of the Collateral Agent's security interest in the Collateral intended to be granted and agreed to hereby;

(iii) upon such Grantor or any officer of such Grantor obtaining knowledge thereof, it shall promptly notify the Collateral Agent in writing of any event that has had or reasonably could be expected to materially and adversely affect the value of the Collateral or any significant portion thereof, the ability of any Grantor or the Collateral Agent to dispose of the Collateral or any portion thereof, or the rights and remedies of the Collateral Agent in relation thereto, including, without limitation, the levy of any legal process against the Collateral or any significant portion thereof that if left unbonded or not removed would result in an Event of Default;

(iv) it shall not take or permit any action which could impair the Collateral Agent's rights in the Collateral in any material respect; and

(v) it shall not sell, transfer or assign (by operation of law or otherwise) any Collateral except as permitted by, and in accordance with the Credit Agreement and the ABL Credit Agreement.

4.2 Equipment and Inventory.

(a) Representations and Warranties. Each Grantor represents and warrants, on the Closing Date and on each Credit Date, that:

(i) all of the Equipment and Inventory (other than de minimis amounts of Equipment and Inventory not located in such locations in the ordinary course of business, Equipment and Inventory in transit between locations identified on Schedule 4.2 and Inventory in transit to Account Debtors) included in the Collateral is kept for the past four (4) years only at the locations specified in Schedule 4.2 (as such schedule may be amended or supplemented from time to time); and

(ii) subject to the provisions of Section 4.2(b)(iii), none of the Inventory or Equipment is in the possession of an issuer of a negotiable document (as defined in Section 7-104 of the UCC) therefor or otherwise in the possession of a bailee or a warehouseman.

(b) Covenants and Agreements. Each Grantor covenants and agrees that:

(i) it shall keep the Equipment, Inventory (other than de minimis amounts of Equipment and Inventory not located in such locations in the

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ordinary course of business, Equipment and Inventory in transit between locations identified on Schedule 4.2 and Inventory in transit to Account Debtors) and any Documents evidencing any Equipment and Inventory in the locations specified on Schedule 4.2 (as such schedule may be amended or supplemented from time to time) unless it shall have notified the Collateral Agent in writing, by executing and delivering to the Collateral Agent a completed Pledge Supplement, substantially in the form of Exhibit A attached hereto, together with all Supplements to Schedules thereto, contemporaneously with any change in locations, identifying such new locations and providing such other information in connection therewith as the Collateral Agent may reasonably request;

(ii) it shall not deliver any Document evidencing any Equipment and Inventory to any Person other than the issuer of such Document to claim the Goods evidenced therefor or the Collateral Agent or the purchaser of such Equipment or Inventory;

(iii) if any Equipment or Inventory with a fair market value of greater than $150,000 in the aggregate is in the possession or under the control of any third party, each Grantor shall join with the Collateral Agent in notifying the third party of the Collateral Agent's security interest and obtaining an acknowledgment from the third party that it is holding the Equipment and Inventory for the benefit of the Collateral Agent; provided, however, that following the occurrence and during the continuance of an Event of Default, each Grantor shall comply with this provision with respect to all Equipment and Inventory; and

(iv) with respect to any item of Equipment which is covered by a certificate of title under a statute of any jurisdiction under the law of which indication of a security interest on such certificate is required as a condition of perfection thereof, upon the reasonable request of the Collateral Agent, (A) provide information with respect to any such Equipment in excess of $40,000 individually or $150,000 in the aggregate, (B) execute and file with the registrar of motor vehicles or other appropriate authority in such jurisdiction an application or other document requesting the notation or other indication of the security interest created hereunder on such certificate of title, and (C) deliver to the Collateral Agent copies of all such applications or other documents filed during such calendar quarter and copies of all such certificates of title issued during such calendar quarter indicating the security interest created hereunder in the items of Equipment covered thereby.

4.3 Receivables.

(a) Covenants and Agreements: Each Grantor hereby covenants and agrees that:

(i) it shall keep and maintain at its own cost and expense satisfactory and complete records of the Receivables, including, but not limited to, the originals of all documentation with respect to all Receivables and records of all payments received and all credits granted on the Receivables, all merchandise returned and all other dealings therewith;

(ii) it shall perform in all material respects all of its obligations with respect to the Receivables;

(iii) it shall not amend, modify, terminate or waive any provision of any material Receivable in any manner which could reasonably be expected to materially and adversely affect the value of such Receivable as Collateral other than, prior to the occurrence and during the continuance of an Event of Default, in the ordinary course of business as generally conducted by such Grantor. Following an Event of Default, other than in the ordinary course of business as generally conducted by it and except as otherwise provided in subsection (iv) below, such Grantor shall not (A) grant any extension or renewal of the time of payment of any Receivable, (B) compromise or settle any dispute, claim or legal proceeding with respect to any Receivable for less than the total unpaid balance thereof, (C) release, wholly or partially, any Person liable for the payment thereof, or (D) allow any credit or discount thereon; and

(iv) each Grantor shall continue to collect all amounts due or to become due to such Grantor under the Receivables and any Supporting Obligation and diligently exercise each material right it may have under any Receivable any Supporting Obligation or Collateral Support, in each case, at its own expense and consistent with such Grantor's reasonable business practice. Notwithstanding the foregoing, the Collateral Agent shall have the right at any time to require any Grantor to notify any Account Debtor of the Collateral Agent's security interest in the Receivables and any Supporting Obligation (and prior to the occurrence and continuance of an Event of Default, such notification may be on a "no name" basis) and, in addition, at any time following the occurrence and during the continuation of an Event of Default, the Collateral Agent may: (A) notify and direct, or require any Grantor to notify and direct, the Account Debtors under any Receivables to make payment of all amounts due or to become due to such Grantor thereunder directly to the Collateral Agent; (B) notify, or require any Grantor to notify, each Person maintaining a lockbox or similar arrangement to which Account Debtors under any Receivables have been directed to make payment to remit all amounts representing collections on checks and other payment items from time to time sent to or deposited in such lockbox or other arrangement directly to the Collateral Agent; and (C) enforce, at the expense of such Grantor, collection of any such Receivables and to adjust, settle or compromise the amount or payment thereof, in the same manner and to the same extent as such Grantor might have done. If the Collateral Agent notifies any Grantor that it has elected to collect the Receivables in accordance with the preceding sentence, any payments of Receivables received by such Grantor shall be forthwith (and in any event within two (2) Business Days) deposited by such Grantor in the exact form received, duly indorsed by such Grantor to the Collateral Agent if required, in a collateral account maintained under the sole dominion and control of the Collateral Agent, and until so turned over, all amounts and proceeds (including checks and other instruments) received by such Grantor in respect of the Receivables, any Supporting Obligation or Collateral Support shall be received in trust for the benefit of the Collateral Agent hereunder and shall be segregated from other funds of such Grantor and such Grantor shall not adjust, settle or compromise the amount or payment of any Receivable, or release wholly or partly any Account Debtor or obligor thereof, or allow any credit or discount thereon.

4.4 Investment Related Property.

4.4.1 Investment Related Property Generally

(a) Covenants and Agreements. Each Grantor hereby covenants and agrees that:

(i) within 10 Business Days after the end of each calendar month, in the event it acquires rights in any Investment Related Property after the date hereof, it shall deliver to the Collateral Agent a completed Pledge Supplement, substantially in the form of Exhibit A attached hereto, together with all Supplements to Schedules thereto, reflecting such new Investment Related Property and all other Investment Related Property. Notwithstanding the foregoing, it is understood and agreed that the security interest of the Collateral Agent shall attach to all Investment Related Property immediately upon any Grantor's acquisition of rights therein and shall not be affected by the failure of any Grantor to deliver a supplement to Schedule 4.4 as required hereby;

(ii) except as provided in the next sentence, in the event such Grantor receives any dividends, interest or distributions on any Investment Related Property, or any securities or other property upon the merger, consolidation, liquidation or dissolution of any issuer of any Investment Related Property, then (A) such dividends, interest or distributions and securities or other property shall be included in the definition of Collateral without further action and (B) such Grantor shall immediately take all steps, if any, necessary or advisable to ensure the validity, perfection, priority and, if applicable, control, except, with respect to control, as otherwise permitted under Sections 4.4.1(b) or 4.4.4(c)(i) below, of the Collateral Agent over such Investment Related Property (including, without limitation, delivery thereof to the Collateral Agent) and pending any such action such Grantor shall be deemed to hold such dividends, interest, distributions, securities or other property in trust for the benefit of the Collateral Agent and shall segregate such dividends, distributions, Securities or other property from all other property of such Grantor. Notwithstanding the foregoing, so long as no Event of Default shall have occurred and be continuing, the Collateral Agent authorizes each Grantor to retain all ordinary cash dividends and distributions paid in the normal course of the business of the issuer and consistent with the past practice of the issuer and all scheduled payments of interest; and

(iii) each Grantor consents to the grant by each other Grantor of a Security Interest in all Investment Related Property to the Collateral Agent.

(b) Delivery and Control. Each Grantor agrees that with respect to any Investment Related Property in which it currently has rights it shall comply with the provisions of this Section 4.4.1(b) on or before the Credit Date and with respect to any Investment Related Property hereafter acquired by such Grantor it shall comply with the provisions of this Section 4.4.1(b) promptly upon acquiring rights therein, in each case in form and substance satisfactory to the Collateral Agent. With respect to any Investment Related Property that is represented by a certificate or that is an "instrument" (other than any Investment Related Property (i) credited to a Securities Account or (ii) which is represented by a certificate or "instrument" and does not exceed $50,000 individually and $200,000 in the aggregate) it shall cause such certificate or instrument to be delivered to the Collateral Agent, indorsed in blank by an "effective indorsement" (as defined in Section 8-107 of the UCC), regardless of whether such certificate constitutes a "certificated security" for purposes of the UCC; provided, however, that following the occurrence and during the continuance of an Event of Default, it shall cause all such certificates or instruments to be delivered to the Collateral Agent. For the avoidance of doubt, the Grantor shall comply with Section 4.4.1(a)(i) regardless of any exception set forth in this Section 4.4.1(b). With respect to any Investment Related Property that is an "uncertificated security" for purposes of the UCC (other than any "uncertificated securities" credited to a Securities Account), it shall cause the issuer of such uncertificated security to either (A) register the Collateral Agent

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as the registered owner thereof on the books and records of the issuer or (B) execute an agreement substantially in the form of Exhibit B hereto, pursuant to which such issuer agrees to comply with the Collateral Agent's instructions with respect to such uncertificated security without further consent by such Grantor.

(c) Voting and Distributions.

(i) So long as no Event of Default shall have occurred and be continuing:

(A) except as otherwise provided under the covenants and agreements relating to Investment Related Property in this Agreement or elsewhere herein or in the Credit Agreement, each Grantor shall be entitled to exercise or refrain from exercising any and all voting and other consensual rights pertaining to the Investment Related Property or any part thereof for any purpose not inconsistent with the terms of this Agreement or the Credit Agreement; provided, no Grantor shall exercise or refrain from exercising any such right if the Collateral Agent shall have notified such Grantor that, in the Collateral Agent's reasonable judgment, such action would materially and adversely affect the value of the Investment Related Property or any part thereof; it being understood, however, that neither the voting by such Grantor of any Pledged Stock for, or such Grantor's consent to, the election of directors (or similar governing body) at a regularly scheduled annual or other meeting of stockholders or with respect to incidental matters at any such meeting, nor such Grantor's consent to or approval of any action otherwise permitted under this Agreement

and the Credit Agreement, shall be deemed inconsistent with the terms of this Agreement or the Credit Agreement within the meaning of this Section 4.4(c)(i)(A); and

(B) the Collateral Agent shall promptly execute and deliver (or cause to be executed and delivered) to each Grantor all proxies, and other instruments as such Grantor may from time to time reasonably request for the purpose of enabling such Grantor to exercise the voting and other consensual rights when and to the extent which it is entitled to exercise pursuant to clause (A) above;

(ii) Upon the occurrence and during the continuation of an Event of Default and (except with regard to an Event of Default pursuant to Section 8.1(f) or 8.1(g) of the Credit Agreement) if the Collateral Agent has given written notice to the Grantor of its election to exercise its rights under this Agreement:

(A) all rights of each Grantor to exercise or refrain from exercising the voting and other consensual rights which it would otherwise be entitled to exercise pursuant hereto shall cease and all such rights shall thereupon become vested in the Collateral Agent who shall thereupon have the sole right to exercise such voting and other consensual rights; and

(B) in order to permit the Collateral Agent to exercise the voting and other consensual rights which it may be entitled to exercise pursuant

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hereto and to receive all dividends and other distributions which it may be entitled to receive hereunder: (1) each Grantor shall promptly execute and deliver (or cause to be executed and delivered) to the Collateral Agent all proxies, dividend payment orders and other instruments as the Collateral Agent may from time to time reasonably request and (2) each Grantor acknowledges that the Collateral Agent may utilize the power of attorney set forth in Section 6.1.

4.4.2 Pledged Equity Interests

(a) Representations and Warranties. Each Grantor hereby represents and warrants, on the Closing Date and on each Credit Date, that:

(i) Schedule 4.4(A) (as such schedule may be amended or supplemented from time to time) sets forth under the headings "Pledged Stock, "Pledged LLC Interests," "Pledged Partnership Interests" and "Pledged Trust Interests," respectively, all of the Pledged Stock, Pledged LLC Interests, Pledged Partnership Interests and Pledged Trust Interests owned by any Grantor and such Pledged Equity Interests constitute the percentage of issued and outstanding shares of stock, percentage of membership interests, percentage of partnership interests or percentage of beneficial interest of the respective issuers thereof indicated on such Schedule;

(ii) it is the record and beneficial owner of the Pledged Equity Interests free of all Liens, rights or claims of other Persons other than the lien of the Collateral Agent and the ABL Collateral Agent and there are no outstanding warrants, options or other rights to purchase, or shareholder, voting trust or similar agreements outstanding with respect to, or property that is convertible into, or that requires the issuance or sale of, any Pledged Equity Interests;

(iii) without limiting the generality of Section 4.1(a)(vii), no consent of any Person including any other general or limited partner, any other member of a limited liability company, any other shareholder or any other trust beneficiary is necessary or desirable in connection with the creation, perfection or First Priority or Second Priority status, in accordance with the Intercreditor Agreement, of the security interest of the Collateral Agent in any Pledged Equity Interests or the exercise by the Collateral Agent of the voting or other rights provided for in this Agreement or the exercise of remedies in respect thereof;

(iv) none of the Pledged LLC Interests nor Pledged Partnership Interests are or represent interests in issuers that: (A) are registered as investment companies or (B) are dealt in or traded on securities exchanges or markets; and

(v) all of the Pledged LLC Interests and Pledged Partnership Interests are or represent interests in issuers that have opted to be treated as securities under the uniform commercial code of any jurisdiction.

(b) Covenants and Agreements. Each Grantor hereby covenants and agrees that:

(i) it shall comply in all material respects with all of its obligations under any partnership agreement or limited liability company agreement relating to Pledged Partnership Interests or Pledged LLC Interests and shall, except prior to the occurrence and during the continuance of an Event of Default, to the extent the relevant Grantor in the exercise of its reasonable business judgment otherwise elects, enforce all of its rights with respect to any Investment Related Property; and

(ii) each Grantor consents to the grant by each other Grantor of a security interest in all Investment Related Property to the Collateral Agent and, without limiting the foregoing, consents to the transfer of any Pledged Partnership Interest and any Pledged LLC Interest to the Collateral Agent or its nominee following an Event of Default and to the substitution of the Collateral Agent or its nominee as a partner in any partnership or as a member in any limited liability company with all the rights and powers related thereto.

4.4.3 Pledged Debt

(a) Representations and Warranties. Each Grantor hereby represents and warrants, on the Closing Date and each Credit Date, that Schedule 4.4 (as such schedule may be amended or supplemented from time to time in accordance with the terms set forth herein) sets forth under the heading "Pledged Debt" all of the Pledged Debt owned by any Grantor and, to the knowledge of such Grantor, all of such Pledged Debt has been duly authorized, authenticated or issued, and delivered and, to such Grantor's knowledge, is the legal, valid and binding obligation of the issuers thereof and is not in default (other than with respect to issuers that are not Affiliates of any Grantor) and constitutes all of the issued and outstanding inter-company Indebtedness;

4.4.4 Investment Accounts

(a) Representations and Warranties. Each Grantor hereby represents and warrants, on the Closing Date and each Credit Date, that:

(i) Schedule 4.4 hereto (as such schedule may be amended or supplemented from time to time) sets forth under the headings "Securities Accounts" and "Commodities Accounts," respectively, all of the Securities Accounts and Commodities Accounts in which each Grantor has an interest. Each Grantor is the sole entitlement holder of each such Securities Account and Commodity Account, and such Grantor has not consented to, and is not otherwise aware of, any Person (other than the ABL Collateral Agent) having "control" (within the meanings of Sections 8-106 and 9-106 of the UCC) over, or any other interest in, any such Securities Account or Commodity Account or securities or other property credited thereto;

(ii) Schedule 4.4 hereto (as such schedule may be amended or supplemented from time to time) sets forth under the headings "Deposit

Accounts" all of the Deposit Accounts in which each Grantor has an interest. Each Grantor is the sole account holder of each such Deposit Account and such Grantor has not consented to, and is not otherwise aware of, any Person (other than the ABL Collateral Agent) having either sole dominion and control (within the meaning of common law) or "control" (within the meanings of Section 9-104 of the UCC) over, or any other interest in, any such Deposit Account or any money or other property deposited therein; and

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(iii) Except as otherwise permitted in Section 4.4.4(c) or as otherwise consented to by the Collateral Agent, each Grantor has taken all actions necessary or desirable, including those specified in Section 4.4.4(c), to: (A) establish Collateral Agent's "control" (within the meanings of Sections 8-106 and 9-106 of the UCC) over any portion of the Investment Related Property constituting Certificated Securities, Uncertificated Securities, Securities Accounts, Securities Entitlements or Commodities Accounts (each as defined in the UCC); (B) establish the Collateral Agent's "control" (within the meaning of Section 9-104 of the UCC) over all Deposit Accounts; and (C) deliver all Instruments, except as otherwise permitted by Section 4.4.1(b), to the Collateral Agent.

(b) Covenant and Agreement. Each Grantor hereby covenants and agrees with the Collateral Agent and each other Secured Party that it shall not close or terminate any Investment Account unless a successor or replacement account has been established with the consent of the Collateral Agent with respect to which successor or replacement account a control agreement has been entered into by the appropriate Grantor, Collateral Agent and securities intermediary or depository institution at which such successor or replacement account is to be maintained in accordance with the provisions of Section 4.4.4(c) (and except as otherwise provided in Section 4.4.4(c)).

(c) Delivery and Control

(i) With respect to any Investment Related Property consisting of Securities Accounts or Securities Entitlements, except for Securities Accounts or Securities Entitlements which do not exceed $100,000 in the aggregate (such amount inclusive of any amounts held in any Deposit Accounts that are not subject to control agreements), it shall cause the securities intermediary maintaining such Securities Account or Securities Entitlement to enter into an agreement ,in form and substance satisfactory to the Collateral Agent, pursuant to which it shall agree to comply with the Collateral Agent's "entitlement orders" without further consent by such Grantor. With respect to any Investment Related Property that is a "Deposit Account," except for Deposit Accounts which do not exceed $100,000 in the aggregate (such amount inclusive of any amounts held in any Securities Accounts that are not subject to control agreements), it shall cause the depositary institution maintaining such account to enter into an agreement, in form and substance satisfactory to the Collateral Agent, pursuant to which the Collateral Agent shall have both sole dominion and control over such Deposit Account (within the meaning of the common law) and "control" (within the meaning of Section 9-104 of the UCC) over such Deposit Account. Each Grantor shall have entered into such control agreement or agreements with respect to: (A) any Securities Accounts, Securities Entitlements or Deposit Accounts that exist on the Credit Date, as of or prior to the Credit Date, and (B) any Securities Accounts, Securities Entitlements or Deposit Accounts that are created or acquired after the Credit Date, as of or prior to the deposit or transfer of any such Securities Entitlements or funds, whether constituting moneys or investments, into such Securities Accounts or Deposit Accounts; except that with respect to any (A) Securities Accounts or Securities Entitlements that exist on the Closing Date, such Grantor shall have entered into such control agreements no later than sixty (60) days after such Closing Date and (B) Deposit Accounts that exist on the Closing Date, such Grantor shall have entered into such control agreements no later than the Closing Date; and

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(ii) in addition to the foregoing, if any issuer of any Investment Related Property is located in a jurisdiction outside of the United States, each Grantor shall take such additional actions, including, without limitation, causing the issuer to register the pledge on its books and records or making such filings or recordings, in each case as may be necessary or advisable, under the laws of such issuer's jurisdiction to insure the validity, perfection and priority of the security interest of the Collateral Agent. Upon the occurrence of an Event of Default, the Collateral Agent shall have the right, without notice to any Grantor, to transfer all or any portion of the Investment Related Property to its name or the name of its nominee or agent. In addition, upon the occurrence and during the continuation of an Event of Default, the Collateral Agent shall have the right at any time, without notice to any Grantor, to exchange any certificates or instruments representing any Investment Related Property for certificates or instruments of smaller or larger denominations.

4.5 Intellectual Property.

(a) Representations and Warranties. Except as disclosed in Schedule 4.5(H) (as such schedule may be amended or supplemented from time to time), each Grantor hereby represents and warrants, on the Closing Date and on each Credit Date, that:

(i) Schedule 4.5 (as such schedule may be amended or supplemented from time to time) sets forth a true and complete list of (A) all United States, state and foreign registrations of and applications for Patents, Trademarks (including all Internet domain names), and Copyrights owned by each Grantor and (B) all Patent Licenses, Trademark Licenses, Trade Secret Licenses and Copyright Licenses material to the business of such Grantor;

(ii) it is the sole and exclusive owner of the entire right, title, and interest in and to all Intellectual Property listed on Schedule 4.5 (as such schedule may be amended or supplemented from time to time), and owns or has the valid right to use all other material Intellectual Property used in or necessary to conduct its business, and all Intellectual Property Collateral is free and clear of all Liens, claims, encumbrances and licenses, except for Permitted Liens and the licenses set forth on Schedule 4.5(B), (D), (F) and (G) (as each may be amended or supplemented from time to time);

(iii) all Intellectual Property Collateral listed on Schedule 4.5 and all other Intellectual Property Collateral that is material to the conduct of such Grantor's business, is subsisting and has not been adjudged invalid or unenforceable, in whole or in part, and each Grantor has performed all acts and has paid all renewal, maintenance, and other fees and taxes required to maintain each and every registration and application of Copyrights, Patents and Trademarks listed on Schedule 4.5 in full force and effect;

(iv) all registrations for Intellectual Property Collateral and all other Intellectual Property Collateral that is material to the Grantor's business is valid and enforceable (except as set forth in Section 4.5(b)(i)); no holding, decision, or judgment has been rendered in any action or proceeding before any court or administrative authority challenging the validity of, such Grantor's right to register, or such Grantor's rights to own or use, any such material Intellectual Property Collateral and no such action or proceeding is pending or, to the best of such Grantor's knowledge, threatened, except for such actions or proceedings that could not reasonably be expected to have a Material Adverse Effect;

(v) all registrations and applications for Copyright Collateral, Patent Collateral and Trademark Collateral are standing in the name of each Grantor, and none of the Trademark Collateral, Patent Collateral, Copyright Collateral or Trade Secret Collateral has been licensed by any Grantor to any Affiliate or third party, except as disclosed in Schedule 4.5(B), (D), (F), or (G) (as each may be amended or supplemented from time to time) and pursuant to non-exclusive licenses entered into in the ordinary course of business;

(vi) each Grantor has been using appropriate statutory notice of registration in connection with its use of registered Trademarks, proper marking practices in connection with the use of Patents, and appropriate notice of copyright in connection with the publication of Copyrights that are, in each case, material to the business of such Grantor;

(vii) each Grantor maintains standards of quality in the manufacture, distribution, and sale of all products sold, and in the provision of all services rendered, under or in connection with all Trademark Collateral that is material to the business of such Grantor and has taken all action necessary to insure that all licensees of the Trademark Collateral owned by such Grantor maintains such standards of quality adequate at minimum to prevent any of the Trademark Collateral from becoming invalid or unenforceable;

(viii) the conduct of the business of Grantor as currently conducted does not and will not infringe upon, violate, misappropriate or dilute any intellectual property of any third party which infringement, violation, misappropriation or dilution could reasonably be expected to have a Material Adverse Effect; no claim is pending or threatened that the use of any Intellectual Property owned or used by Grantor (or any of its respective licensees) violates the rights of any third party, except for claims that could not reasonably be expected to have a Material Adverse Effect;

(ix) to the best of each Grantor's knowledge, no third party is infringing upon or otherwise violating any rights in any Intellectual Property owned or used by such Grantor, where such infringement or violation could reasonably be expected to have a Material Adverse Effect; and

(x) no settlements or consents, covenants not to sue, nonassertion assurances, or releases have been entered into by any Grantor or to which any Grantor is bound that materially and adversely affects any Grantor's rights to own or use any Intellectual Property that is material to the business of such Grantor.

(b) Covenants and Agreements. Each Grantor hereby covenants and agrees as follows:

(i) it shall not do any act or omit to do any act whereby any of the Intellectual Property which is material to the business of any Grantor may lapse, or become abandoned, dedicated to the public or unenforceable, or which would adversely affect the validity, grant or enforceability of the security interest granted therein;

(ii) it shall not, with respect to any Trademarks which are material to the business of any Grantor, cease the use of any of such Trademarks or fail to maintain the level of the quality of products sold and services rendered under any of such

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Trademark at a level at least substantially consistent with the quality of such products and services as of the date hereof, and each Grantor shall use commercially reasonable efforts to insure that licensees of such Trademarks use such consistent standards of quality;

(iii) it shall not apply to register any Copyright in the United States Copyright Office without the prior written notice to the Collateral Agent, and the provision of details sufficient for the Collateral Agent to record its security interest in the United States Copyright Office;

(iv) it shall promptly notify the Collateral Agent if it knows or has reason to know that any item of the Intellectual Property that is material to the business of any Grantor may become (A) abandoned or dedicated to the public or placed in the public domain, (B) invalid or unenforceable, or (C) subject to any adverse determination or development (including the institution of proceedings) in any action or proceeding in the United States Patent and Trademark Office, the United States Copyright Office, any state registry, any foreign counterpart of the foregoing, or any court;

(v) it shall take all reasonable steps in the United States Patent and Trademark Office, the United States Copyright Office, any state registry or any foreign counterpart of the foregoing, to pursue all applications and maintain all registrations of each Trademark, Patent, and Copyright owned by any Grantor and material to its business which is now or shall become included in the Intellectual Property Collateral;

(vi) in the event that any Intellectual Property owned by or exclusively licensed to any Grantor is infringed, misappropriated, or diluted by a third party, such Grantor shall promptly take all actions such Grantor determines is necessary or advisable in its reasonable business judgment to stop such infringement, misappropriation, or dilution and protect its rights in such Intellectual Property including, but not limited to, the initiation of a suit for injunctive relief and to recover damages;

(vii) it shall within ten (10) Business days after the end of each Fiscal Quarter report to the Collateral Agent (A) the filing of any application to register any Intellectual Property Collateral with the United States Patent and Trademark Office, the United States Copyright Office, or any state registry or foreign counterpart of the foregoing (whether such application is filed by such Grantor or through any agent, employee, licensee, or designee thereof during such Fiscal Quarter), and (B) the registration of any Intellectual Property Collateral by any such office, in each case by executing and delivering to the Collateral Agent a completed Pledge Supplement, substantially in the form of Exhibit A attached hereto, together with all Supplements to Schedules thereto;

(viii) it shall, promptly upon the reasonable request of the Collateral Agent, execute and deliver to the Collateral Agent any document required to acknowledge, confirm, register, record, or perfect the Collateral Agent's interest in any and all parts of the Intellectual Property Collateral, whether now owned or hereafter acquired;

(ix) except with the prior written consent of the Collateral Agent or as permitted under the Credit Agreement or the ABL Credit Agreement, each Grantor (i) shall not execute, and there will not be any filings with respect to a Lien on file in any public office, any financing statement or other document or instruments, except financing statements or other documents or instruments filed or to be filed in favor of the Collateral Agent or in connection with any other Permitted Lien and (ii) shall not sell, assign, transfer, grant any option, or create or suffer to exist any Lien upon or with respect to the Intellectual Property Collateral, except for the Lien created by and under this Agreement, the ABL Security Agreement or the other Credit Documents;

(x) it shall hereafter use commercially reasonable efforts so as not to permit the inclusion in any contract to which it hereafter becomes a party of any provision that could reasonably be expected to materially impair or prevent the creation of a security interest in, or the assignment of, such Grantor's rights and interests in any Intellectual Property acquired under such contracts, except for non-exclusive licenses entered into in the ordinary course of business which restrict only the assignment of such license;

(xi) it shall take all steps reasonably necessary to protect the secrecy of all Trade Secrets, including, without limitation, entering into confidentiality agreements with employees and labeling and restricting access to confidential information and documents; and

(xii) it shall use proper statutory notice in connection with its use of any of the Intellectual Property that is material to its business.

4.6 Commercial Tort Claims.

(a) Representations and Warranties. Each Grantor hereby represents and warrants, on the Closing Date and on each Credit Date, that Schedule 4.8 (as such schedule may be amended or supplemented from time to time) sets forth all known Commercial Tort Claims of each Grantor in excess of $250,000 individually or $500,000 in the aggregate; and

(b) Covenants and Agreements. Each Grantor hereby covenants and agrees that with respect to any known Commercial Tort Claim in excess of $250,000 individually or $500,000 in the aggregate hereafter arising it shall deliver to the Collateral Agent a completed Pledge Supplement, substantially in the form of Exhibit A attached hereto, together with all Supplements to Schedules thereto, identifying such new Commercial Tort Claims.

SECTION 5. FURTHER ASSURANCES; ADDITIONAL GRANTORS.

5.1 Further Assurances.

(a) Each Grantor agrees that from time to time, at the expense of such Grantor, that it shall promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that the Collateral Agent may reasonably request, in order to create and/or maintain the validity, perfection or priority of and protect any security interest granted hereby or to enable the Collateral Agent to exercise and enforce its rights and remedies hereunder with respect to any Collateral. Without limiting the generality of the foregoing, each Grantor shall:

(i) file such financing or continuation statements, or amendments thereto, and execute and deliver such other agreements, instruments, endorsements, powers of attorney or notices, as may be necessary or desirable, or as the Collateral Agent may reasonably request, in order to perfect and preserve the security interests granted or purported to be granted hereby;

(ii) take all actions necessary to ensure the recordation of appropriate evidence of the liens and security interest granted hereunder in the Intellectual Property with any intellectual property registry in which said Intellectual Property is registered or in which an application for registration is pending including, without limitation, the United States Patent and Trademark Office, the United States Copyright Office, the various Secretaries of State, and the foreign counterparts on any of the foregoing;

(iii) at any reasonable time, upon request by the Collateral Agent, allow inspection of the Collateral by the Collateral Agent, or persons designated by the Collateral Agent; and

(iv) at the Collateral Agent's request, appear in and defend any action or proceeding that may affect such Grantor's title to or the Collateral Agent's security interest in all or any part of the Collateral.

(b) Each Grantor hereby authorizes the Collateral Agent to file a Record or Records, including, without limitation, financing or continuation statements, and amendments thereto, in any jurisdictions and with any filing offices as the Collateral Agent may determine, in its sole discretion, are necessary or advisable to perfect the security interest granted to the Collateral Agent herein. Such financing statements may describe the Collateral in the same manner as described herein or may contain an indication or description of collateral that describes such property in any other manner as the Collateral Agent may determine, in its sole discretion, is necessary, advisable or prudent to ensure the perfection of the security interest in the Collateral granted to the Collateral Agent herein, including, without limitation, describing such property as "all assets" or "all personal property, whether now owned or hereafter acquired." Each Grantor shall furnish to the Collateral Agent from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as the Collateral Agent may reasonably request, all in reasonable detail.

(c) Each Grantor hereby authorizes the Collateral Agent to modify this Agreement after obtaining such Grantor's approval of or signature to such modification by amending Schedule 4.5 (as such schedule may be amended or supplemented from time to time) to include reference to any right, title or interest in any existing Intellectual Property or any Intellectual Property acquired or developed by any Grantor after the execution hereof or to delete any reference to any right, title or interest in any Intellectual Property in which any Grantor no longer has or claims any right, title or interest.

5.2 Additional Grantors. From time to time subsequent to the date hereof, additional Persons may become parties hereto as additional Grantors (each, an "Additional Grantor"), by executing a Pledge Supplement in the form attached hereto as Exhibit A and a Counterpart Agreement in accordance with the Credit Agreement. Upon delivery of any such Pledge Supplement to the Collateral Agent, notice of which is hereby waived by Grantors, each Additional Grantor shall be a Grantor and shall be as fully a party hereto as if Additional Grantor were an original signatory hereto. Each Grantor expressly agrees that its obligations arising

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hereunder shall not be affected or diminished by the addition or release of any other Grantor hereunder, nor by any election of Collateral Agent not to cause any Subsidiary of Company to become an Additional Grantor hereunder. This Agreement shall be fully effective as to any Grantor that is or becomes a party hereto regardless of whether any other Person becomes or fails to become or ceases to be a Grantor hereunder.

SECTION 6. COLLATERAL AGENT APPOINTED ATTORNEY-IN-FACT.

6.1 Power of Attorney. Each Grantor hereby irrevocably appoints the Collateral Agent (such appointment being coupled with an interest) as such Grantor's attorney-in-fact, with full authority in the place and stead of such Grantor and in the name of such Grantor, the Collateral Agent or otherwise, from time to time in the Collateral Agent's discretion to take any action and to execute any instrument that the Collateral Agent may deem reasonably necessary or advisable to allow the Collateral Agent to undertake any action required to be undertaken by any Grantor hereunder and not so undertaken, and otherwise to accomplish the purposes of this Agreement, including, without limitation, the following:

(a) upon the occurrence and during the continuance of any Event of Default, to obtain and adjust insurance required to be maintained by such Grantor or paid to the Collateral Agent pursuant to the Credit Agreement;

(b) upon the occurrence and during the continuance of any Event of Default, to ask for, demand, collect, sue for, recover, compound, receive and give acquittance and receipts for moneys due and to become due under or in respect of any of the Collateral;

(c) upon the occurrence and during the continuance of any Event of Default, to receive, endorse and collect any drafts or other instruments, documents and chattel paper in connection with clause (b) above;

(d) upon the occurrence and during the continuance of any Event of Default, to file any claims or take any action or institute any proceedings that the Collateral Agent may deem necessary or desirable for the collection of any of the Collateral or otherwise to enforce the rights of the Collateral Agent with respect to any of the Collateral;

(e) to prepare and file any UCC financing statements against such Grantor as debtor;

(f) to prepare, sign, and file for recordation in any intellectual property registry, appropriate evidence of the lien and security interest granted herein in the Intellectual Property in the name of such Grantor as debtor;

(g) upon the occurrence and during the continuance of any Event of Default, to take or cause to be taken all actions necessary to perform or comply or

cause performance or compliance with the terms of this Agreement, including, without limitation, access to pay or discharge Taxes and all penalties and interest related thereto or Liens (other than Permitted Liens) levied or placed upon or threatened against the Collateral, the legality or validity thereof and the amounts necessary to discharge the same to be determined by the Collateral Agent in its sole discretion, any such payments made by the Collateral Agent to become obligations of such Grantor to the Collateral Agent, due and payable immediately without demand; and

(h) upon the occurrence and during the continuance of any Event of Default, generally to sell, transfer, pledge, make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though the Collateral Agent were the absolute owner thereof for all purposes, and to do, at the Collateral Agent's option and such Grantor's expense, at any time or from time to time, all acts and things that the Collateral Agent deems reasonably necessary to protect, preserve or realize upon the Collateral and the Collateral Agent's security interest therein in order to effect the intent of this Agreement, all as fully and effectively as such Grantor might do.

6.2 No Duty on the Part of Collateral Agent or Secured Parties. The powers conferred on the Collateral Agent hereunder are solely to protect the interests of the Secured Parties in the Collateral and shall not impose any duty upon the Collateral Agent or any Secured Party to exercise any such powers. The Collateral Agent and the Secured Parties shall be accountable only for amounts that they actually receive as a result of the exercise of such powers, and neither they nor any of their officers, directors, employees or agents shall be responsible to any Grantor for any act or failure to act hereunder, except for their own gross negligence or willful misconduct.

SECTION 7. REMEDIES.

7.1 Generally.

(a) If any Event of Default shall have occurred and be continuing, the Collateral Agent may exercise in respect of the Collateral, in addition to all other rights and remedies provided for herein or otherwise available to it at law or in equity, all the rights and remedies of the Collateral Agent on default under the UCC (whether or not the UCC applies to the affected Collateral) to collect, enforce or satisfy any Secured Obligations then owing, whether by acceleration or otherwise, and also may pursue any of the following separately, successively or simultaneously:

(i) require any Grantor to, and each Grantor hereby agrees that it shall at its expense and promptly upon request of the Collateral Agent forthwith, assemble all or part of the Collateral as directed by the Collateral Agent and make it available to the Collateral Agent at a place to be designated by the Collateral Agent that is reasonably convenient to both parties;

(ii) enter onto the property where any Collateral is located and take possession thereof with or without judicial process;

(iii) prior to the disposition of the Collateral, store, process, repair or recondition the Collateral or otherwise prepare the Collateral for disposition in any manner to the extent the Collateral Agent deems appropriate; and

(iv) without notice except as specified below or under the UCC, sell, assign, lease, license (on an exclusive or nonexclusive basis) or otherwise dispose of the Collateral or any part thereof in one or more parcels at public or private sale, at any of the Collateral Agent's offices or elsewhere, for cash, on credit or for future delivery, at such time or times and at such price or prices and upon such other terms as the Collateral Agent may deem commercially reasonable.

(b) The Collateral Agent or any Secured Party may be the purchaser of any or all of the Collateral at any public or private (to the extent to the portion of the Collateral being privately sold is of a kind that is customarily sold on a recognized market or the subject of widely distributed standard price quotations) sale in accordance with the UCC and the Collateral Agent, as collateral agent for and representative of the Secured Parties, shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such sale made in accordance with the UCC, to use and apply any of the Secured Obligations as a credit on account of the purchase price for any Collateral payable by the Collateral Agent at such sale. Each purchaser at any such sale shall hold the property sold absolutely free from any claim or right on the part of any Grantor, and each Grantor hereby waives (to the extent permitted by applicable law) all rights of redemption, stay and/or appraisal which it now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted. Each Grantor agrees that, to the extent notice of sale shall be required by law, at least ten (10) days notice to such Grantor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Collateral Agent shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Collateral Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. Each Grantor agrees that it would not be commercially unreasonable for the Collateral Agent to dispose of the Collateral or any portion thereof by using Internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capability of doing so, or that match buyers and sellers of assets. Each Grantor hereby waives any claims against the Collateral Agent arising by reason of the fact that the price at which any Collateral may have been sold at such a private sale was less than the price which might have been obtained at a public sale, even if the Collateral Agent accepts the first offer received and does not offer such Collateral to more than one offeree. If the proceeds of any sale or other disposition of the Collateral are insufficient to pay all the Secured Obligations, Grantors shall be liable for the deficiency and the fees of any attorneys employed by the Collateral Agent to collect such deficiency. Each Grantor further agrees that a breach of any of the covenants contained in this Section will cause irreparable injury to the Collateral Agent, that the Collateral Agent has no adequate remedy at law in respect of such breach and, as a consequence, that each and every covenant contained in this Section shall be specifically enforceable against such Grantor, and such Grantor hereby waives and agrees not to assert any defenses against an action for specific performance of such covenants except for a defense that no default has occurred giving rise to the Secured Obligations becoming due and payable prior to their stated maturities or that relate to non-waivable provisions of applicable law. Nothing in this Section shall in any way alter the rights of the Collateral Agent hereunder.

(c) The Collateral Agent may sell the Collateral without giving any warranties as to the Collateral. The Collateral Agent may specifically disclaim or modify any warranties of title or the like. This procedure will not be considered to adversely affect the commercial reasonableness of any sale of the Collateral.

(d) The Collateral Agent shall have no obligation to marshal any of the Collateral.

7.2 Application of Proceeds. Except as provided in the Intercreditor Agreement, all proceeds received by the Collateral Agent in respect of any sale, any collection from, or other realization upon all or any part of the Collateral shall be applied in full or in part by the Collateral Agent against, the Secured Obligations in the following order of priority: first, to the payment of all costs and expenses of such sale, collection or other realization, including reasonable

compensation to the Collateral Agent and its agents and counsel, and all other expenses, liabilities and advances made or incurred by the Collateral Agent in connection therewith, and all amounts for which the Collateral Agent is entitled to indemnification hereunder (in its capacity as the Collateral Agent and not as a Lender) and all advances made by the Collateral Agent hereunder for the account of the applicable Grantor, and to the payment of all costs and expenses paid or incurred by the Collateral Agent in connection with the exercise of any right or remedy hereunder or under the Credit Agreement, all in accordance with the terms hereof or thereof; second, to pay interest on and then principal of any portion of the Term Loans that Administrative Agent may have advance on behalf of any Lender for which Administrative Agent has not then been

reimbursed by such Lender or Company; third, to the extent of any excess of such proceeds, to the payment of all other Secured Obligations for the ratable benefit of the Lenders; and fourth, to the extent of any excess of such proceeds, to the payment to or upon the order of such Grantor or to whosoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

7.3 Sales on Credit. If Collateral Agent sells any of the Collateral on credit, the Secured Obligations will be credited only with payments actually made by purchaser and received by Collateral Agent and applied to indebtedness of the purchaser. In the event the purchaser fails to pay for the Collateral, Collateral Agent may resell the Collateral and the Secured Obligations shall be credited with proceeds of the sale.

7.4 Deposit Accounts.

If any Event of Default shall have occurred and be continuing, the Collateral Agent may apply the balance from any Deposit Account or instruct the bank at which any Deposit Account is maintained to pay the balance of any Deposit Account to or for the benefit of the Collateral Agent.

7.5 Investment Related Property.

Each Grantor recognizes that, by reason of certain prohibitions contained in the Securities Act and applicable state securities laws, the Collateral Agent may be compelled, with respect to any sale of all or any part of the Investment Related Property conducted without prior registration or qualification of such Investment Related Property under the Securities Act and/or such state securities laws, to limit purchasers to those who will agree, among other things, to acquire the Investment Related Property for their own account, for investment and not with a view to the distribution or resale thereof. Each Grantor acknowledges that any such private sale may be at prices and on terms less favorable than those obtainable through a public sale without such restrictions (including a public offering made pursuant to a registration statement under the Securities Act) and, notwithstanding such circumstances, each Grantor agrees that any such private sale shall be deemed to have been made in a commercially reasonable manner and that the Collateral Agent shall have no obligation to engage in public sales and no obligation to delay the sale of any Investment Related Property for the period of time necessary to permit the issuer thereof to register it for a form of public sale requiring registration under the Securities Act or under applicable state securities laws, even if such issuer would, or should, agree to so register it. If the Collateral Agent determines to exercise its right to sell any or all of the Investment Related Property, upon written request, each Grantor shall and shall cause each issuer of any Pledged Stock to be sold hereunder, each partnership and each limited liability company from time to time to furnish to the Collateral Agent all such information as the Collateral Agent may request in order to determine the number and nature of interest, shares or other instruments included in the Investment Related Property which may be sold by the Collateral Agent in exempt transactions

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under the Securities Act and the rules and regulations of the Securities and Exchange Commission thereunder, as the same are from time to time in effect.

7.6 Intellectual Property.

(a) Anything contained herein to the contrary notwithstanding, upon the occurrence and during the continuation of an Event of Default:

(i) the Collateral Agent shall have the right (but not the obligation) to bring suit or otherwise commence any action or proceeding in the name of any Grantor, the Collateral Agent or otherwise, in the Collateral Agent's sole discretion, to enforce any Intellectual Property Collateral, in which event such Grantor shall, at the request of the Collateral Agent, do any and all lawful acts and execute any and all documents required by the Collateral Agent in aid of such enforcement and such Grantor shall promptly, upon demand, reimburse and indemnify the Collateral Agent as provided in Section 10 hereof in connection with the exercise of its rights under this Section, and, to the extent that the Collateral Agent shall elect not to bring suit to enforce any Intellectual Property Collateral as provided in this Section, each Grantor agrees to use all reasonable measures, whether by action, suit, proceeding or otherwise, to prevent the infringement or other violation of any of such Grantor's rights in the Intellectual Property Collateral by others and for that purpose agrees to diligently maintain any action, suit or proceeding against any Person so infringing as shall be necessary to prevent such infringement or violation to the extent required under Section 4.5(b);

(ii) upon written demand from the Collateral Agent, each Grantor shall grant to the Collateral Agent any licenses, assignments or rights in any of such Grantor's right, title and interest in and to any Intellectual Property Collateral and shall execute and deliver to the Collateral Agent such documents as are necessary or appropriate for the Grantor or the Collateral Agent to continue, directly or indirectly, to produce, advertise and sell the products and services sold or delivered by such Grantor prior to such Event of Default;

(iii) within five (5) Business Days after written notice from the Collateral Agent, each Grantor shall use reasonable best efforts to continue, directly or indirectly, to produce, advertise and sell the products and services sold or delivered by such Grantor under or in connection with the Trademarks and Trademark Licenses; and

(iv) the Collateral Agent shall have the right to notify, or require each Grantor to notify, any obligors with respect to amounts due or to become due to such Grantor in respect of the Intellectual Property Collateral, of the existence of the security interest created herein, to direct such obligors to make payment of all such amounts directly to the Collateral Agent, and, upon such notification and at the expense of such Grantor, to enforce collection of any such amounts and to adjust, settle or compromise the amount or payment thereof, in the same manner and to the same extent as such Grantor might have done; including

(1) all amounts and proceeds (including checks and other instruments) received by Grantor in respect of amounts due to such Grantor in respect of the Intellectual Property Collateral or any portion thereof shall be received in trust for the benefit of the Collateral Agent hereunder, shall be segregated from other funds of such Grantor and shall be forthwith paid over or delivered to the Collateral Agent in

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the same form as so received (with any necessary endorsement) to be held as cash Collateral and applied as provided by Section 7.7 hereof; and

(2) Grantor shall not adjust, settle or compromise the amount or payment of any such amount or release wholly or partly any obligor with respect thereto or allow any credit or discount thereon.

(b) If (i) an Event of Default shall have occurred and, by reason of cure, waiver, modification, amendment or otherwise, no longer be continuing, (ii) no other Event of Default shall have occurred and be continuing, (iii) an assignment or other transfer to the Collateral Agent of any rights, title and interests in and to the Intellectual Property Collateral shall have been previously made and shall have become absolute and effective, and (iv) the Secured Obligations shall not have become immediately due and payable, upon the written request of any Grantor, the Collateral Agent shall promptly execute and deliver to such Grantor, at such Grantor's sole cost and expense, such assignments or other transfer as may be necessary to reassign to such Grantor any such rights, title and interests as may have been assigned to the Collateral Agent as aforesaid, subject to any disposition thereof that may have been made by the Collateral Agent; provided, after giving effect to such reassignment, the Collateral Agent's security interest granted pursuant hereto, as well as all other rights and remedies of the Collateral Agent granted hereunder, shall continue to be in full force and effect; and provided further, the rights, title and interests so reassigned shall be free and clear of any other Liens granted by or on behalf of the Collateral Agent and the Secured Parties.

(c) Solely for the purpose of enabling the Collateral Agent to exercise rights and remedies under this Section 7 and at such time as the Collateral Agent shall be lawfully entitled to exercise such rights and remedies, each Grantor hereby grants to the Collateral Agent, to the extent it has the right to do so, an irrevocable,

nonexclusive license (exercisable without payment of royalty or other compensation to such Grantor), subject, in the case of Trademarks, to sufficient rights to quality control and inspection in favor of such Grantor to avoid the risk of invalidation of said Trademarks, to use, operate under, license, or sublicense any Intellectual Property now owned or hereafter acquired by such Grantor, and wherever the same may be located.

7.7 Cash Proceeds. In addition to the rights of the Collateral Agent specified in Section 4.3 with respect to payments of Receivables, upon the occurrence and during the continuation of an Event of Default and (except with regard to an Event of Default pursuant to Section 8.1(f) or 8.1(g) of the Credit Agreement) notice from the Collateral Agent of its intent to exercise its rights under this Section 7.7, all proceeds of any Collateral received by any Grantor consisting of cash, checks and other non-cash items (collectively, "**Cash Proceeds**") shall be held by such Grantor in trust for the Collateral Agent, segregated from other funds of such Grantor, and shall, forthwith upon receipt by such Grantor, unless otherwise provided pursuant to Section 4.4(a)(ii), be turned over to the Collateral Agent in the exact form received by such Grantor (duly indorsed by such Grantor to the Collateral Agent, if required) and held by the Collateral Agent in the Collateral Account. Any Cash Proceeds received by the Collateral Agent (whether from a Grantor or otherwise): if an Event of Default shall have occurred and be continuing, may, in the sole discretion of the Collateral Agent, (A) be held by the Collateral Agent for the ratable benefit of the Secured Parties, as collateral security for the Secured Obligations (whether matured or unmatured) and/or (B) then or at any time thereafter shall be applied by the Collateral Agent against the Secured Obligations in accordance with the terms hereof (except as otherwise provided in the Intercreditor Agreement).

SECTION 8. COLLATERAL AGENT.

The Collateral Agent has been appointed to act as Collateral Agent hereunder by Lenders and, by their acceptance of the benefits hereof, the other Secured Parties. The Collateral Agent shall be obligated, and shall have the right hereunder, to make demands, to give notices, to exercise or refrain from exercising any rights, and to take or refrain from taking any action (including, without limitation, the release or substitution of Collateral), solely in accordance with this Agreement, the Intercreditor Agreement and the Credit Agreement. In furtherance of the foregoing provisions of this Section, each Secured Party, by its acceptance of the benefits hereof, agrees that it shall have no right individually to realize upon any of the Collateral hereunder, it being understood and agreed by such Secured Party that all rights and remedies hereunder may be exercised solely by the Collateral Agent for the benefit of Secured Parties in accordance with the terms of this Section and the Intercreditor Agreement. Collateral Agent may resign at any time by giving thirty (30) days' prior written notice thereof to Lenders and the Grantors. Upon any such notice of resignation, Requisite Lenders shall have the right, upon five (5) Business Days' notice to the Collateral Agent, to appoint a successor Collateral Agent. If no successor shall have been so appointed by the Requisite Lenders and shall have accepted such appointment within thirty (30) days after the resigning Collateral Agent gives notice of its resignation, then the resigning Collateral Agent may, on behalf of the Secured Parties, appoint a successor Collateral Agent. Upon the acceptance of any appointment as Collateral Agent hereunder by a successor Collateral Agent, that successor Collateral Agent shall be deemed the Collateral Agent under this Agreement. Upon the acceptance of any appointment as Administrative Agent under the terms of the Credit Agreement by a successor Administrative Agent, that successor Administrative Agent shall thereby also be deemed the successor Collateral Agent and such successor Collateral Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Collateral Agent under this Agreement, and the retiring Collateral Agent under this Agreement shall promptly (i) transfer to such successor Collateral Agent all sums, Securities and other items of Collateral held hereunder, together with all records and other documents necessary or appropriate in connection with the performance of the duties of the successor Collateral Agent under this Agreement, and (ii) execute and deliver to such successor Collateral Agent such amendments to financing statements, and take such other actions, as may be necessary or appropriate in connection with the assignment to such successor Collateral Agent of the security interests created hereunder, whereupon such retiring Collateral Agent shall be discharged from its duties and obligations under this Agreement. After any retiring Collateral Agent's resignation hereunder as the Collateral Agent, the provisions of this Agreement and the Credit Agreement (including Section 9 thereof) shall inure to its benefit as to any actions taken or omitted to be taken by it under this Agreement while it was the Collateral Agent hereunder.

Grantors jointly and severally agree to indemnify the Collateral Agent and the other Secured Parties from and against any and all claims, losses and liabilities in any way relating to, growing out of or resulting from this Agreement and the transactions contemplated hereby (including, without limitation, enforcement of this Agreement), except to the extent such claims, losses or liabilities result solely from the Collateral Agent's or Secured Party's gross negligence or willful misconduct as finally determined by a court of competent jurisdiction. The obligations of Grantors in this Section 8 shall survive the termination of this Agreement and the discharge of the Secured Obligations.

SECTION 9. CONTINUING SECURITY INTEREST; TRANSFER OF LOANS.

This Agreement shall create a continuing security interest in the Collateral and shall remain in full force and effect until the payment in full of all Secured Obligations and the

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cancellation or termination of the Commitments, be binding upon each Grantor, its successors and assigns, and inure, together with the rights and remedies of the Collateral Agent hereunder, to the benefit of the Collateral Agent and its successors, transferees and assigns. Without limiting the generality of the foregoing, but subject to the terms of the Credit Agreement, any Lender may assign or otherwise transfer any Loans held by it to any other Person, and such other Person shall thereupon become vested with all the benefits in respect thereof granted to Lenders herein or otherwise. Upon the payment in full of all Secured Obligations and the cancellation or termination of the Commitments, the security interest granted hereby shall terminate hereunder and of record and all rights to the Collateral shall revert to Grantors. Upon any such termination the Collateral Agent shall, at Grantors' expense, execute and deliver to Grantors such documents as Grantors shall reasonably request to evidence such termination. In addition, the Collateral Agent shall, at Grantors' expense, execute and deliver to Grantors any documents or instruments necessary to release any Lien in accordance with Section 9.8 of the Credit Agreement encumbering any item of Collateral that is the subject of a sale or other disposition of assets permitted under the Credit Agreement.

SECTION 10. STANDARD OF CARE; COLLATERAL AGENT MAY PERFORM.

The powers conferred on the Collateral Agent hereunder are solely to protect its interest in the Collateral and shall not impose any duty upon it to exercise any such powers. Except for the exercise of reasonable care in the custody of any Collateral in its possession and the accounting for moneys actually received by it hereunder, the Collateral Agent shall have no duty as to any Collateral or as to the taking of any necessary steps to preserve rights against prior parties or any other rights pertaining to any Collateral. The Collateral Agent shall be deemed to have exercised reasonable care in the custody and preservation of Collateral in its possession if such Collateral is accorded treatment substantially equal to that which the Collateral Agent accords its own property. Neither the Collateral Agent nor any of its directors, officers, employees or agents shall be liable for failure to demand, collect or realize upon all or any part of the Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Collateral upon the request of any Grantor or otherwise. If any Grantor fails to perform any agreement contained herein, the Collateral Agent may itself perform, or cause performance of, such agreement, and the expenses of the Collateral Agent incurred in connection therewith shall be payable by each Grantor under Section 10.2 of the Credit Agreement.

SECTION 11. MISCELLANEOUS.

Any notice required or permitted to be given under this Agreement shall be given in accordance with Section 10.1 of the Credit Agreement. No failure or delay on the part of the Collateral Agent in the exercise of any power, right or privilege hereunder or under any other Credit Document shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other power, right or privilege. All rights, powers and remedies existing under this Agreement and the other Credit Documents are cumulative and shall be in addition to and independent of all rights, powers and remedies existing by virtue of any statute or rule of law or in any of the other Credit Document. Any forbearance or failure to exercise, and any delay in exercising, any right, power or remedy hereunder shall not impair any such right, power or remedy or be construed to be a waiver thereof, nor shall it preclude the further exercise of any such right, power or remedy. In case any provision in or obligation under this Agreement shall be invalid, illegal or

unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired

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thereby. All covenants hereunder shall be given independent effect so that if a particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or would otherwise be within the limitations of, another covenant shall not avoid the occurrence of a Default or an Event of Default if such action is taken or condition exists. This Agreement shall be binding upon and inure to the benefit of the Collateral Agent and Grantors and their respective successors and assigns. No Grantor shall, without the prior written consent of the Collateral Agent given in accordance with the Credit Agreement, assign any right, duty or obligation hereunder. This Agreement, the Intercreditor Agreement and the other Credit Documents embody the entire agreement and understanding between Grantors and the Collateral Agent and supersede all prior agreements and understandings between such parties relating to the subject matter hereof and thereof. This Agreement may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO ITS CONFLICTS OF LAW PRINCIPLES THEREOF.

[Signatures follow on next page]

IN WITNESS WHEREOF, each Grantor and the Collateral Agent have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first written above.

DOUGLAS DYNAMICS HOLDINGS, INC.

By: _____
Name:
Title:

DOUGLAS DYNAMICS, L.L.C.

By: _____
Name:
Title:

DOUGLAS DYNAMICS FINANCE COMPANY

By: _____
Name:
Title:

FISHER, LLC,

By: _____
Name:
Title:

CREDIT SUISSE, **CAYMAN ISLANDS BRANCH**,
as Collateral Agent

By: _____
Name:
Title:

By: _____
Name:
Title:

SCHEDULE 4.1
TO PLEDGE AND SECURITY AGREEMENT

GENERAL INFORMATION

(A) Full Legal Name, Type of Organization, Jurisdiction of Organization, Chief Executive Office/Sole Place of Business (or Residence if Grantor is a Natural Person) and Organizational Identification Number of each Grantor:

Full Legal Name	Type of Organization	Jurisdiction of Organization	Chief Executive Office/Sole Place of Business (or Residence if Grantor is a Natural Person)	Organization I.D.#

(B) Other Names (including any Trade-Name or Fictitious Business Name) under which each Grantor has conducted business for the past five (5) years:

Full Legal Name	Trade Name or Fictitious Business Name

(C) Changes in Name, Jurisdiction of Organization, Chief Executive Office or Sole Place of Business (or Principal Residence if Grantor is a Natural Person) and Corporate Structure within past five (5) years:

Name of Grantor	Date of Change	Description of Change

(D) Agreements pursuant to which any Grantor is found as debtor within past five (5) years:

Name of Grantor	Description of Agreement

(E) Financing Statements:

Name of Grantor	Filing Jurisdiction(s)

SCHEDULE 4.2
TO PLEDGE AND SECURITY AGREEMENT

Name of Grantor	Location of Equipment and Inventory

SCHEDULE 4.4
TO PLEDGE AND SECURITY AGREEMENT

INVESTMENT RELATED PROPERTY

(A) Pledged Stock:

Grantor	Stock Issuer	Class of Stock	Certificated (Y/N)	Stock Certificate No.	Par Value	No. of Pledged Stock	% of Outstanding Stock of the Stock Issuer

Pledged LLC Interests:

Grantor	Limited Liability Company	Certificated (Y/N)	Certificate No. (if any)	No. of Pledged Units	% of Outstanding LLC Interests of the Limited Liability Company

Pledged Partnership Interests:

Grantor	Partnership	Type of Partnership Interests (e.g., general or limited)	Certificated (Y/N)	Certificate No. (if any)	% of Outstanding Partnership Interests of the Partnership

Pledged Trust Interests:

Grantor	Trust	Class of Trust Interests	Certificated (Y/N)	Certificate No. (if any)	% of Outstanding Trust Interests of the Trust

Pledged Debt:

Grantor	Issuer	Original Principal Amount	Outstanding Principal Balance	Issue Date	Maturity Date

Securities Account:

Grantor	Share of Securities Intermediary	Account Number	Account Name

Commodities Accounts:

Grantor	Name of Commodities Intermediary	Account Number	Account Name

Deposit Accounts:

Grantor	Name of Depositary Bank	Account Number	Account Name

(B)

Name of Grantor	Date of Acquisition	Description of Acquisition

SCHEDULE 4.5
TO PLEDGE AND SECURITY AGREEMENT

Name of Grantor

INTELLECTUAL PROPERTY

(A) Copyrights

(B) Copyright Licenses

(C) Patents

(D) Patent Licenses

(E) Trademarks

(F) Trademark Licenses

(G) Trade Secret Licenses

(H) Intellectual Property Exceptions

EXHIBIT A
TO PLEDGE AND SECURITY AGREEMENT

PLEDGE SUPPLEMENT

This **PLEDGE SUPPLEMENT**, dated [mm/dd/yy], is delivered by **[NAME OF GRANTOR]** a **[NAME OF STATE OF ORGANIZATION]** [Corporation] (the **"Grantor"**) pursuant to the Term Pledge and Security Agreement, dated as of May 21, 2007 (as it may be from time to time amended, restated, modified or supplemented, the "Security Agreement"), among Douglas Dynamics Holdings, Inc., a Delaware corporation, Douglas Dynamics, L.L.C., a Delaware limited liability company, Fisher, LLC, a Delaware limited liability company and Douglas Dynamics Finance Company, the other Grantors named therein, and Credit Suisse, Cayman Islands Branch, as the Collateral Agent. Capitalized terms used herein not otherwise defined herein shall have the meanings ascribed thereto in the Security Agreement.

Grantor hereby confirms the grant to the Collateral Agent set forth in the Security Agreement of, and does hereby grant to the Collateral Agent, a security interest in all of Grantor's right, title and interest in and to all Collateral to secure the Secured Obligations, in each case whether now or hereafter existing or in which Grantor now has or hereafter acquires an interest and wherever the same may be located. Grantor represents and warrants that the attached Supplements to Schedules accurately and completely set forth all additional information required pursuant to the Security Agreement and hereby agrees that such Supplements to Schedules shall constitute part of the Schedules to the Security Agreement, and agrees to be bound by all of the provisions of the Security Agreement applicable to any "Grantor".

IN WITNESS WHEREOF, Grantor has caused this Pledge Supplement to be duly executed and delivered by its duly authorized officer as of **[mm/dd/yy]**.

[NAME OF GRANTOR]

By: _____
Name:
Title:

SUPPLEMENT TO SCHEDULE 4.1
TO PLEDGE AND SECURITY AGREEMENT

Additional Information:

(A) Full Legal Name, Type of Organization, Jurisdiction of Organization, Chief Executive Office/Sole Place of Business (or Residence if Grantor is a Natural Person) and Organizational Identification Number of each Grantor:

Full Legal Name	Type of Organization	Jurisdiction of Organization	Chief Executive Office/Sole Place of Business (or Residence if Grantor is a Natural Person)	Organization I.D.#

(B) Other Names (including any Trade-Name or Fictitious Business Name) under which each Grantor has conducted business for the past five (5) years:

Full Legal Name	Trade Name or Fictitious Business Name

(C) Changes in Name, Jurisdiction of Organization, Chief Executive Office or Sole Place of Business (or Principal Residence if Grantor is a Natural Person) and Corporate Structure within past five (5) years:

Name of Grantor	Date of Change	Description of Change

(D) Agreements pursuant to which any Grantor is found as debtor within past five (5) years:

Name of Grantor	Description of Agreement

(E) Financing Statements:

Name of Grantor	Filing Jurisdiction(s)

SUPPLEMENT TO SCHEDULE 4.2
TO PLEDGE AND SECURITY AGREEMENT

Additional Information:

Name of Grantor	Location of Equipment and Inventory

SUPPLEMENT TO SCHEDULE 4.4
TO PLEDGE AND SECURITY AGREEMENT

Additional Information:

(A)

Pledged Stock:

Pledged Partnership Interests:

Pledged LLC Interests:

Pledged Trust Interests:

Pledged Debt:

Securities Account:

Commodities Accounts:

Deposit Accounts:

(B)

Name of Grantor	Date of Acquisition	Description of Acquisition

SUPPLEMENT TO SCHEDULE 4.5
TO PLEDGE AND SECURITY AGREEMENT

Additional Information:

(A) Copyrights

(B) Copyright Licenses

(C) Patents

(D) Patent Licenses

(E) Trademarks

(F) Trademark Licenses

(G) Trade Secret Licenses

(H) Intellectual Property Exceptions

EXHIBIT B
TO PLEDGE AND SECURITY AGREEMENT

UNCERTIFICATED SECURITIES CONTROL AGREEMENT

This Uncertificated Securities Control Agreement dated as of , 200 among (the "**Pledgor**"), Credit Suisse, Cayman Islands Branch, as collateral agent for the Secured Parties (as defined in the Term Pledge and Security Agreement dated as of May 21, 2007, among the Pledgor, the other Grantors party thereto and the Collateral Agent (the "**Security Agreement**")) and the Secured Parties (as defined in the ABL Pledge and Security Agreement, dated as of May 21, 2007, among the Debtor, the other Grantors party thereto and the Collateral Agent), (the "**Collateral Agent**") and , a corporation (the "**Issuer**"). Capitalized terms used but not defined herein shall have the meaning assigned in the Security Agreement. All references herein to the "**UCC**" shall mean the Uniform Commercial Code as in effect in the State of New York.

Section 1. Registered Ownership of Shares. The Issuer hereby confirms and agrees that as of the date hereof the Pledgor is the registered owner of shares of the Issuer's [common] stock (the "**Pledged Shares**") and the Issuer shall not change the registered owner of the Pledged Shares without the prior written consent of the Collateral Agent or in connection with a disposition permitted by the Credit Agreement.

Section 2. Instructions. If at any time the Issuer shall receive instructions originated by the Collateral Agent relating to the Pledged Shares, the Issuer shall comply with such instructions without further consent by the Pledgor or any other person.

Section 3. Additional Representations and Warranties of the Issuer. The Issuer hereby represents and warrants to the Collateral Agent:

(a) It has not entered into, and until the termination of this agreement will not enter into, any agreement with any other person relating the Pledged Shares pursuant to which it has agreed to comply with instructions issued by such other person; and

(b) It has not entered into, and until the termination of this agreement will not enter into, any agreement with the Pledgor or the Collateral Agent purporting to limit or condition the obligation of the Issuer to comply with Instructions as set forth in Section 2 hereof.

(c) Except for the claims and interest of the Collateral Agent and of the Pledgor in the Pledged Shares, the Issuer does not know of any claim to, or interest in, the Pledged Shares. If any person asserts any lien, encumbrance or adverse claim (including any writ, garnishment, judgment, warrant of attachment, execution or similar process) against the Pledged Shares, the Issuer will promptly notify the Collateral Agent and the Pledgor thereof.

(d) This Uncertificated Securities Control Agreement is the valid and legally binding obligation of the Issuer.

Section 4. Choice of Law. This Agreement shall be governed by the laws of the State of New York.

Section 5. Conflict with Other Agreements. In the event of any conflict between this Agreement (or any portion thereof) and any other agreement now existing or hereafter entered into, the terms of this Agreement shall prevail. No amendment or modification of this Agreement or waiver of any right hereunder shall be binding on any party hereto unless it is in writing and is signed by all of the parties hereto.

Section 6. Voting Rights. Until such time as the Collateral Agent shall otherwise instruct the Issuer in writing, the Pledgor shall have the right to vote the Pledged Shares.

Section 7. Successors; Assignment. The terms of this Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective corporate successors or heirs and personal representatives who obtain such rights solely by operation of law. The Collateral Agent may assign its rights hereunder only with the express written consent of the Issuer and by sending written notice of such assignment to the Pledgor.

Section 8. Indemnification of Issuer. The Pledgor and the Collateral Agent hereby agree that (a) the Issuer is released from any and all liabilities to the Pledgor and the Collateral Agent arising from the terms of this Agreement and the compliance of the Issuer with the terms hereof, except to the extent that such liabilities arise from the Issuer's gross negligence or willful misconduct and (b) the Pledgor, its successors and assigns shall at all times indemnify and save harmless the Issuer from and against any and all claims, actions and suits of others arising out of the terms of this Agreement or the compliance of the Issuer with the terms hereof, except to the extent that such arises from the Issuer's gross negligence or willful misconduct, and from and against any and all liabilities, losses, damages, costs, charges, counsel fees and other expenses of every nature and character arising by reason of the same, until the termination of this Agreement.

Section 9. Notices. Any notice, request or other communication required or permitted to be given under this Agreement shall be in writing and deemed to have been properly given when delivered in person, or when sent by telecopy or other electronic means and electronic confirmation of error free receipt is received or two (2) days after being sent by certified or registered United States mail, return receipt requested, postage prepaid, addressed to the party at the address set forth below.

Pledgor:	**[INSERT ADDRESS]** Attention: Telecopier:
Collateral Agent:	**[INSERT ADDRESS]** Attention: Telecopier:
Issuer:	**[INSERT ADDRESS]** Attention: Telecopier:

Any party may change its address for notices in the manner set forth above.

Section 10. Termination. The obligations of the Issuer to the Collateral Agent pursuant to this Control Agreement shall continue in effect until the security interests of the Collateral Agent in the Pledged Shares have been terminated pursuant to the terms of the Security Agreement and the Collateral Agent has notified the Issuer of such termination in writing. The

Collateral Agent agrees to provide Notice of Termination in substantially the form of Exhibit A hereto to the Issuer upon the request of the Pledgor on or after the termination of the Collateral Agent's security interest in the Pledged Shares pursuant to the terms of the Security Agreement. The termination of this Control Agreement shall not terminate the Pledged Shares or alter the obligations of the Issuer to the Pledgor pursuant to any other agreement with respect to the Pledged Shares.

Section 11. Counterparts. This Agreement may be executed in any number of counterparts, all of which shall constitute one and the same instrument, and any party hereto may execute this Agreement by signing and delivering one or more counterparts.

[NAME OF PLEDGOR]

By: _____
Name:
Title:

[ ]
as Collateral Agent

By: _____
Name:
Title:

[NAME OF ISSUER]

By: _____
Name:
Title:

Exhibit A

[Letterhead of Collateral Agent]

[Date]

[Name and Address of Issuer]

Attention:

Re: Termination of Control Agreement

You are hereby notified that the Uncertificated Securities Control Agreement between you, [the Pledgor] and the undersigned (a copy of which is attached) is terminated and you have no further obligations to the undersigned pursuant to such Agreement. Notwithstanding any previous instructions to you, you are hereby instructed to accept all future directions with respect to Pledged Shares (as defined in the Uncertificated Control Agreement) from [the Pledgor]. This notice terminates any obligations you may have to the undersigned with respect to the Pledged Shares, however nothing contained in this notice shall alter any obligations which you may otherwise owe to [the Pledgor] pursuant to any other agreement.

You are instructed to deliver a copy of this notice by facsimile transmission to [insert name of Pledgor].

Very truly yours,

[ ],
as Collateral Agent

By: _____
Name:
Title:

By: _____
Name:
Title:

**MORTGAGE, ASSIGNMENT OF LEASES,
RENTS AND PROFITS AND SECURITY AGREEMENT**

DOUGLAS DYNAMICS, L.L.C.

Mortgagor

to

CREDIT SUISSE, CAYMAN ISLANDS BRANCH
in its capacity as Collateral Agent for the Secured Parties
Eleven Madison Avenue
New York, New York 10010

Mortgagee

DATED: As of May 21, 2007

Premises located in:
City of Rockland, County of Knox, State of Maine

Record and Return to:
Skadden Arps Slate Meagher & Flom LLP
300 South Grand Avenue
Los Angeles, California 90071
Attn: Eric Lee, Esq.

INDEX

MORTGAGE, ASSIGNMENT OF LEASES, RENTS AND PROFITS AND SECURITY AGREEMENT

THIS MORTGAGE, ASSIGNMENT OF LEASES, RENTS AND PROFITS AND SECURITY AGREEMENT(this **"Mortgage"**) made as of this 21st day of May, 2007 by **DOUGLAS DYNAMICS, L.L.C.**, a Delaware limited liability company having an office at 7777 North 73rd Street, Milwaukee, Wisconsin 53223 (the **"Mortgagor"**), to **CREDIT SUISSE, CAYMAN ISLANDS BRANCH**, a bank organized under the laws of Switzerland, acting through its Cayman Islands Branch (**"Credit Suisse"**), as collateral agent (in such capacity, and together with its successors and assigns, the **"Mortgagee"**), having an office at Eleven Madison Avenue, New York, New York 10010, for the Secured Parties (as such term and other capitalized terms used but not otherwise defined herein are defined in the Credit Agreement, defined below).

W I T N E S S E T H:

WHEREAS, Mortgagor is the owner of the fee interest in those certain parcels of land lying and being situated in the City of Rockland, Knox County, Maine, as more particularly described in Exhibit A attached hereto;

WHEREAS, Mortgagor, as Borrower, Fisher, LLC, a Delaware limited liability company ("**Fisher**"), Douglas Dynamics Finance Company, a Delaware corporation ("**DD Finance**"), and Douglas Dynamics Holdings, Inc., a Delaware corporation ("**Holdings**"), as Guarantors, the banks and financial institutions listed on the signature pages thereof (together with their respective successors and assigns, each individually referred to herein as a "**Lender**" and collectively as "**Lenders**"), Credit Suisse, Cayman Islands Branch, as sole bookrunner, sole lead arranger, syndication agent, documentation agent, administrative agent for the Lenders ("**Term Administrative Agent**"), and as collateral agent for the Lenders, have entered into that certain Credit and Guaranty Agreement, dated as of May 21, 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the **"Credit Agreement"**), pursuant to which Lenders have agreed to make, and Mortgagee has agreed to administer, certain credit facilities in an aggregate amount not to exceed $85,000,000, which extensions of credit shall be used for the purposes permitted under the Credit Agreement, upon the terms and conditions contained in the Credit Agreement; and

WHEREAS, Mortgagor has agreed to execute and deliver to Mortgagee this Mortgage in order to secure Mortgagor's performance of Mortgagor's obligations under the Credit Agreement and under any of the other Credit Documents;

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and other good and valuable consideration, including Mortgagee's entering into the Credit Agreement, the receipt and legal sufficiency of which are hereby expressly acknowledged by all parties, to secure the full and complete payment and performance of the Obligations, including Mortgagor's performance of Mortgagor's obligations pursuant to the Credit Agreement, this Mortgage and the other Credit Documents, Mortgagor and Mortgagee hereby agree as follows:

Mortgagor does hereby grant, pledge, mortgage, warrant, sell, transfer, assign, and convey unto Mortgagee subject only to the Permitted Liens and Existing Liens (defined below), all of its right, title and interest in the following (collectively, the **"Property"**):

A. All that certain land located in the City of Rockland, Knox County, Maine, and more particularly described in Exhibit A annexed hereto and made a part hereof (collectively, the **"Land"**).

B. All the buildings, structures and improvements, now or at any time hereafter erected on the Land or any part thereof (collectively, the **"Buildings"**).

C. All machinery, apparatus, equipment, personal property and fixtures of every kind and nature whatsoever now or hereafter located in, on or about any one or more of the Buildings or upon the Land, or attached to or used or useable in connection with the operation or maintenance of the Land or any one or more of the Buildings, or any part thereof, and now owned or hereafter acquired (collectively, the **"Building Equipment"**; the Land, the Buildings and the Building Equipment being hereafter sometimes collectively referred to as the **"Premises"**).

D. All right, title and interest of Mortgagor, whether now owned or hereafter acquired, in and to any opened or proposed avenues, streets, roads, public places, sidewalks, alleys, strips or gores of land, in front of or adjoining the Land or any one or more of the Buildings and all easements, tenements, hereditament, appurtenances, rights and rights of way, public or private, pertaining or belonging to the Land or any one or more of the Buildings.

E. All insurance proceeds and all awards and payments, subject to applicable provisions of this Mortgage, including interest thereon, and the right to receive the same, which may be made in respect of all or any part of any of the Premises or any estate or interest therein or appurtenant thereto, as a result of damage to or destruction of all or any part of any of the Premises, the exercise of the right of condemnation or eminent domain, the closing of, or the alteration of the grade of, any street on or adjoining the Land, or any other injury to or decrease in the value of all or any part of any of the Premises.

F. All right, title and interest of Mortgagor in and to any and all present and future Leases (as defined in Paragraph 47) of all or any part of the Premises, and in and to the rents, issues and profits payable thereunder and cash or securities deposited thereunder as lessees' security deposits.

G. All franchises, permits, licenses and rights therein respecting the use, occupation and operation of the Premises or the activities conducted thereon or therein.

H. All right, title and interest of Mortgagor in and to any minerals, oil or gas located on, under or appurtenant to the Land.

I. All right, title and interest of Mortgagor in and to any tax refunds with respect to the Premises.

J. To the extent assignable, all of Mortgagor's interest in and to all agreements, contracts, certificates, instruments and other documents, now or hereafter entered into, pertaining to the construction, operation or management of the Premises and all right, title and interest of Mortgagor therein (collectively, the **"Contracts"**).

K. All of Mortgagor's interest in and to all easements, rights, licenses, privileges and appurtenances including, without limitation, development and air rights now or hereafter belonging or in any way appertaining to the Land.

L. All of the estate and rights of Mortgagor now or hereafter acquired in and to land lying in streets, roads, ways and alleys, open or proposed, adjoining or contiguous to the Land.

M. The rents, issues and profits of any of the foregoing.

TO HAVE AND TO HOLD the Property unto Mortgagee, its successors and assigns, forever. Provided, that if (i) Mortgagor shall perform all obligations hereunder and (ii) the Obligations (including, without limitation, certain credit facilities in an aggregate amount not to exceed $170,000,000, all as further described in the Credit Agreement, and any "Future Advances" and "Contingent Obligations" referred to in Section 50 of this Mortgage) are paid in full, the Commitments are cancelled or terminated and all outstanding Letters of Credit are cancelled or have expired, then this Mortgage shall be released without warranty, at the cost and request of Mortgagor.

AND MORTGAGOR COVENANTS, REPRESENTS AND WARRANTS TO AND FOR THE BENEFIT OF MORTGAGEE AND THE SECURED PARTIES AS FOLLOWS:

1. Payment of Obligations and Performance of Covenants and Agreements Mortgagor shall pay or perform the Obligations when due in accordance with the provisions of the Credit Agreement, this Mortgage, and the other Credit Documents and perform the covenants and agreements of Mortgagor set forth in the Credit Documents.

2. Title to Property Mortgagor represents and warrants that (a) it owns good and marketable fee simple title to the Premises, (b) it has the good and unrestricted right, full power and lawful authority to make this Mortgage in accordance with the terms hereof, (c) Mortgagor has obtained any and all consents and approvals necessary or required for the making of this Mortgage, and the making of this Mortgage will not violate any contract or agreement to which Mortgagor is a party or by which the Property is bound, and (d) the Premises is free of all liens, encumbrances, adverse claims and other defects of title whatsoever except those items listed on Exhibit B annexed hereto and made a part hereof (collectively, the **"Existing Liens"**) and Permitted Liens. Mortgagor does hereby and shall forever warrant and defend its title to and interest in the Property and the validity and priority of the lien of this Mortgage, subject to the Existing Liens and the Permitted Liens, to Mortgagee and the Secured Parties, their respective successors and assigns, against all claims and demands whatsoever of any Person or

Persons. As of the date hereof, there are no defenses or offsets to this Mortgage or to the Obligations.

3. Intercreditor Agreement Notwithstanding anything herein to the contrary, and regardless of the priority of recordation of this Mortgage, the lien and security interests granted to the Mortgagee pursuant to this Mortgage and the exercise of any right or remedy by such Mortgagee hereunder are subject to the provisions of that certain Intercreditor Agreement, dated as of May 21, 2007 (the "**Intercreditor Agreement**"), by and among Mortgagor, Fisher, DD Finance, Holdings, Mortgagee, Term Administrative Agent, Credit Suisse, in its capacity as administrative agent under the ABL Loan Documents (as defined therein), and JPMorgan Chase Bank, N.A., in its capacity as collateral agent under the ABL Loan Documents (together with its successors and assigns from time to time in such capacity, the "**ABL Collateral Agent**"). In the event of any conflict between the terms of the Intercreditor Agreement and this Mortgage, the terms of the Intercreditor Agreement shall govern.

4. Future Advances Without limiting the generality of any other provision hereof, or the terms and provisions of the Credit Agreement, the Obligations shall include, without limitation: (a) all existing indebtedness of Mortgagor to Mortgagee and/or any of the Secured Parties evidenced by any of the Credit Documents; (b) all future advances that may subsequently be made by Mortgagee and/or the Lenders as provided by any of the Credit Documents; and (c) all other indebtedness, if any, of Mortgagor to Mortgagee and/or any of the Secured Parties now due or to become due or hereafter contracted pursuant to any of the Credit Documents; provided that the maximum principal amount of all existing indebtedness, future advances, readvances of sums repaid and all other indebtedness secured hereby at any one time shall not exceed the total sum of $170,000,000 (exclusive of interest thereon, attorneys' fees and costs, taxes, insurance premiums and all other obligations hereunder).

5. Insurance

(a) Mortgagor shall maintain in full force and effect with respect to the Premises the insurance as required by Section 5.5 of the Credit Agreement.

(b) In the event of a foreclosure of this Mortgage or other action or proceeding taken by Mortgagee pursuant to this Mortgage, the purchaser of the Premises shall succeed to all of the rights of Mortgagor, including any right to unearned premiums, in and to all policies of insurance which Mortgagor is required to maintain under Paragraph 5(a) and to all proceeds of such insurance.

6. Impositions

(a) Mortgagor shall pay, not later than the final delinquency date thereof, all real estate taxes, personal property taxes, assessments, water rates and sewer rents, license fees, all charges which may be imposed for the use of vaults, chutes, areas and other space beyond the lot line and abutting the public sidewalks in front of or adjoining the Land, and any other amounts which could be or become a lien upon or against the

Property or any part thereof (collectively, the **"Impositions"**); provided, no such Imposition need be paid if it is being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, so long as adequate reserve or other appropriate provision, as shall be required in conformity with GAAP shall have been made

therefor. Notwithstanding the foregoing, Mortgagor shall promptly, and in any event on demand, pay such contested Imposition if at any time all or any part of the Property shall be in danger of being foreclosed, sold, forfeited, or otherwise lost or if such contest shall be discontinued. During the continuance of any Event of Default, upon demand by Mortgagee, Mortgagor will pay the whole of any assessment (an **"Assessment"**) for local improvements which may be payable in installments, notwithstanding that such installments may not be due and payable at the time of such demand.

(b) Mortgagor shall, upon request of Mortgagee, deliver to Mortgagee, within twenty (20) days after the final delinquency date thereof of any Imposition or Assessment, receipts evidencing such payment or other proof of payment satisfactory to Mortgagee.

7. Maintenance and Alterations Mortgagor will maintain or cause to be maintained in good repair, working order and condition, ordinary wear and tear excepted, the Premises and from time to time will make or cause to made all appropriate repairs, renewals and replacements thereof.

8. Leasing Mortgagor represents that there are no Leases now in effect. Mortgagor shall not enter into any Lease of all or any part of any of the Premises without in each instance obtaining Mortgagee's prior written consent thereto, which consent shall not be unreasonably withheld, conditioned or delayed. Mortgagor shall deliver to Mortgagee a duplicate original of each Lease promptly after the execution thereof. At the option of Mortgagee, each Lease, and all renewals, replacements, extensions, and modifications thereof, and all rights of the tenant thereunder, shall be subject and subordinate to this Mortgage, and to each and every advance made or thereafter made hereunder or under the other Credit Documents and to all renewals, additions, amendments, supplements, modifications, consolidations, spreaders, replacements, and extensions of this Mortgage and shall contain provisions obligating the tenants thereunder to attorn to Mortgagee or any purchaser therefrom if Mortgagee or such purchaser succeeds to the interest of Mortgagor under such Lease. Mortgagor shall fully and promptly perform all of the obligations to be performed by the lessor under any and all Leases. Mortgagor shall enforce the performance and observance of each and every obligation to be performed or observed by the lessees under such Leases. Mortgagor shall give prompt notice to Mortgagee of (a) any notice received by Mortgagor of any default by the lessor under any Lease, (b) the commencement of any action or proceeding by any lessee the purpose of which shall be the cancellation of any Lease or a diminution or abatement of the rent payable thereunder, (c) any notice of default given by Mortgagor to the lessee under any Lease, or (d) the interposition by any lessee of any defense or counterclaim in any action or proceeding brought by Mortgagor against such lessee; and Mortgagor will cause a copy of any process, pleading or notice received or served by Mortgagor in reference to any such action, defense or claim to be promptly delivered to

Mortgagee. Mortgagor shall hold in trust all security deposits and advance rent given on account of any Lease, and deposit such security in a bank or trust company and shall not mingle such funds with other funds. Mortgagor shall repay or apply such funds only in accordance with the provisions of the applicable Leases.

9. Recording, Filing and Other Fees Mortgagor shall pay all recording and filing fees, all recording taxes, and all other costs and expenses in connection with the preparation, execution and recordation and other manner of perfection of this Mortgage and any other Credit Documents, and shall reimburse Mortgagee and each of the Secured Parties on demand for all costs and expenses of any kind incurred by Mortgagee or any of the Secured Parties in connection therewith (including, without limitation, reasonable attorneys' fees and disbursements). Mortgagor will, at any time on request of Mortgagee, execute or cause to be executed financing statements, continuation statements, or the like, in respect of any Building Equipment. Mortgagor shall pay all filing fees, including fees for filing continuation statements, in connection with such financing statements.

10. Taxes Imposed on Mortgagee and the Secured Parties Mortgagor shall pay all taxes (except income, inheritance and franchise taxes, taxes on the receipt of debt service payments, or taxes in lieu of any of the foregoing) imposed on Mortgagee or any of the Secured Parties by reason of its ownership of this Mortgage or any of the other Credit Documents.

11. Compliance with Laws, etc. Mortgagor shall comply with the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority (including Environmental Laws), noncompliance with which could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

12. Inspection Mortgagee and its authorized representatives shall have the right, at Mortgagee's option, at reasonable times during normal business hours and upon reasonable prior written notice, and as often as may be reasonably requested, to enter the Premises for the purpose of inspecting the same and any other Collateral.

13. Certificate of Mortgagor Mortgagor, upon request of Mortgagee or any of the Secured Parties, shall certify to Mortgagee or to such Secured Party or to any proposed assignee of or participant in this Mortgage, by an instrument in form reasonably satisfactory to Mortgagee or such Secured Party, duly acknowledged, the amount of the Obligations then owing, whether any offsets or defenses exist against payment or performance of all or any portion of the Obligations and anything else that Mortgagee or such Secured Party might reasonably request, within ten (10) days if the request is made personally, or within fifteen (15) days if the request is made by mail. Mortgagee, Secured Parties and any actual or proposed assignee of or participant in this Mortgage shall have the right to rely on such certification.

14. Condemnation

(a) Mortgagor shall give notice to Mortgagee upon Mortgagor receiving written notice of the commencement of any action or proceeding to take all or any part of the Premises by exercise of the right of condemnation or eminent domain or of any action or proceeding to close or to alter the grade of any street on or adjoining the Land. Mortgagee may participate in any such action or proceeding in the name of Mortgagee or, whenever necessary, in the name of Mortgagor, and Mortgagor shall deliver to Mortgagee such instruments as Mortgagee shall request to permit such participation. Mortgagor shall not settle any such action or proceeding or agree to accept any award or payment without the prior written consent of Mortgagee (which consent shall not be unreasonably withheld, conditioned or delayed), and such award or payment and any interest thereon (hereinafter collectively called the **"Award"**) shall be applied in accordance withSection 2.14(b) and Section 2.15 of the Credit Agreement.

(b) The application of any Award toward payment of the Obligations shall not be deemed a waiver by Mortgagee or any of the Secured Parties of its right to receive payment of the balance of the Obligations in accordance with the provisions of the Credit Documents. Mortgagee shall have the right, but shall be under no obligation, to question the amount of the Award, and Mortgagee may accept the same without prejudice to the rights that Mortgagee may have to question such amount. In any such condemnation or eminent domain action or proceeding Mortgagee may be represented by attorneys selected by Mortgagee, and all sums paid by Mortgagee in connection with such action or proceeding (including, without limitation, reasonable attorneys' fees to the extent permitted by law) shall, on demand, be immediately due from Mortgagor to Mortgagee and the same shall be secured by this Mortgage.

(c) Notwithstanding any taking by condemnation or eminent domain, closing of, or alteration of the grade of, any street or other injury to or decrease in value of the Premises by any public or quasi-public authority or corporation, the unpaid principal portion of the Advances shall continue to bear interest at the rate payable pursuant to the applicable Credit Documents until the Award shall have been actually received by Mortgagee, and any reduction in the Obligations resulting from the application by Mortgagee of the Award shall be deemed to take effect only on the date of such receipt.

Restoration If the Buildings or the Building Equipment shall be damaged or destroyed, in whole or in part, by fire or other casualty, or by any taking in condemnation proceedings or the exercise of any right of eminent domain, Mortgagor shall promptly restore, replace or rebuild the same to as nearly as possible the value,

quality and condition they were in immediately prior to such fire or other casualty or taking, with such alterations or changes as may be approved in writing by Mortgagee which approval shall not be unreasonably withheld or delayed, or apply the amount of any Award or insurance proceeds received with respect thereto, in each case in accordance with Section 2.14(b) and Section 2.15 of the Credit Agreement. Mortgagor shall give prompt notice to Mortgagee of any damage or destruction to the Buildings or Building Equipment by fire or other casualty, as well as the initiation of any condemnation or eminent domain proceeding affecting the same.

16. Default

(a) Any Event of Default under the Credit Agreement shall constitute an Event of Default hereunder and Mortgagee shall have all of the rights of the Administrative Agent and Collateral Agent under the Credit Agreement and all of the remedies hereunder.

(b) All notice and cure periods provided in the Credit Agreement shall run concurrently with any notice and cure periods provided under applicable law.

17. Mortgagee's Right to Perform Mortgagor's Covenants If there shall be an Event of Default, Mortgagee may, at its option, cure such Event of Default, and Mortgagee and its representatives shall have the right to enter the Premises to do so, and the amounts advanced by, and the other costs and expenses of, Mortgagee in curing such Event of Default, with interest from the time of the advances or payments at the Base Rate plus the Applicable Margin, shall, on demand, be immediately due from Mortgagor to Mortgagee and shall be secured by this Mortgage.

18. Contemporaneous Mortgages THIS MORTGAGE IS MADE CONTEMPORANEOUSLY WITH TWO (2) OTHER MORTGAGES OR DEEDS OF TRUST OF EVEN DATE HEREWITH (as any of the same may be amended, supplemented, restated, severed, consolidated, spread, partially released, increased or otherwise modified from time to time, the **"Contemporaneous Mortgages"**) GIVEN TO MORTGAGEE COVERING PROPERTY LOCATED IN THE STATES OF TENNESSEE AND WISCONSIN. The Contemporaneous Mortgages secure the Obligations. Upon the occurrence of an Event of Default, Mortgagee may proceed under this Mortgage and/or the Contemporaneous Mortgages against any of such property and/or the Property in one or more parcels and in such manner and order as Mortgagee shall elect. Mortgagor hereby irrevocably waives and releases, to the extent permitted by law, whether now or hereafter in force, any right to have the property and/or the Property covered by the Contemporaneous Mortgages marshalled upon any foreclosure of this Mortgage or the Contemporaneous Mortgages.

19. Appointment of Receiver After the occurrence and during the continuance of an Event of Default, Mortgagee may apply for the appointment of a receiver of the Rents (as defined in Paragraph 47), issues, and profits of all or any part of the Property from whatever source derived and thereupon it is hereby expressly covenanted and agreed that the court shall forthwith appoint such receiver with the usual powers and duties of receivers in like cases; and said appointment shall be made by the court ex parte as a matter of strict right to Mortgagee, without notice to or demand upon Mortgagor or any Person claiming through or under Mortgagor, and Mortgagee shall be entitled to the appointment of such receiver as a matter of right, to the extent not prohibited by applicable law, without consideration of the value of the Property as security for the amounts due to Mortgagee or the Secured Parties or the solvency of any Person liable for the payment of such amounts. Mortgagor hereby specifically waives the right to object to the appointment of a receiver as aforesaid and hereby expressly consents that such appointment shall be made ex parte and without notice to Mortgagor as an

admitted equity and as a matter of absolute right to Mortgagee. In order to maintain and preserve the Property and to prevent waste and impairment of its security, Mortgagee may, at its option, advance monies to the appointed receiver and all such sums advanced shall become secured obligations and shall bear interest from the date of such advance at the rate of interest specified in Section 2.9 of the Credit Agreement.

20. Intentionally Deleted

21. Judicial Foreclosure After the occurrence and during the continuance of an Event of Default, Mortgagee may institute an action of foreclosure, or take such other action as the law may allow, at law or in equity, for the enforcement hereof and realization on the Property or any other security which is herein or elsewhere provided for, and proceed thereon to final judgment and execution thereon for the entire principal then outstanding under the Credit Documents, with interest thereon at the rate stipulated in the Credit Documents to the date of default and thereafter at the default interest rate specified in Section 2.9 of the Credit Agreement together with all other sums secured by this Mortgage, all costs of suit, including, without limitation, the expenses which are described in Paragraphs 25 and 29, and interest at the default interest rate specified in Section 2.9 of the Credit Agreement on any judgment obtained by Mortgagee from and after the date of any judicial sale of any of the Property until actual payment. Upon any sale or sales made hereunder, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Mortgagee and/or any of the Secured Parties may bid for and acquire any of the Property or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting against the Obligations the net sales price after deducting therefrom the expenses of the sale and the costs of the action and any other sums which Mortgagee is authorized to deduct under this Mortgage. Except as otherwise provided in the Credit Agreement, the proceeds of such sale shall be applied first to the payment of the costs and charges of such sale, including, without limitation, Mortgagee's attorneys' fees, (to the extent permitted by law), and second to the payment of the Obligations, the surplus money, if any, to be paid to the Person(s) legally entitled thereto (including Mortgagor, to the extent so entitled, if at all). Upon the request of Mortgagee and to the extent not prohibited by applicable law, Mortgagor shall execute and file with the clerk of the court a legally sufficient waiver of any statutory waiting period with respect to the execution of a judgment obtained by Mortgagee in connection with any foreclosure proceedings. The obligation of Mortgagor to so execute and file such waiver shall survive the termination of this Mortgage. Following a foreclosure sale, the sheriff shall deliver to the purchaser the sheriff's deed (and bill of sale as to any personalty) conveying the property so sold without any covenant or warranty, express or implied.

22. Sale in Parcels In the event of a foreclosure of this Mortgage or upon any sale under this Mortgage pursuant to judicial proceedings or otherwise, the Property may be sold in one parcel and as an entirety or in such parcels, manner or order as Mortgagee in its sole discretion may select.

23. Notice Upon Acceleration Whenever Mortgagee in this Mortgage is given the option to accelerate the maturity of all or part of the Obligations upon the occurrence of an Event of Default, Mortgagee may, to the extent permitted by law, do so without prior notice or demand to or upon Mortgagor except as otherwise specifically provided herein.

24. Possession of Premises To the extent permitted by law, after the occurrence and during the continuance of an Event of Default, Mortgagee and its agents and any receiver appointed by a court are authorized to (a) take possession of the Premises, with or without legal action, and by force if necessary; (b) lease the Premises or make modifications to or cancel Leases; (c) maintain, repair, alter, and restore the Premises; (d) with or without taking possession, collect all Rents and profits payable under all Leases directly from the lessees thereunder upon notice to each such lessee that an Event of Default exists under this Mortgage accompanied by a demand on such lessee for the payment to Mortgagee of all Rents due and to become due under its Lease, and Mortgagor FOR THE BENEFIT OF MORTGAGEE AND EACH SUCH LESSEE hereby covenants and agrees that the lessee shall be under no duty to question the accuracy of Mortgagee's statement of default and shall unequivocally be authorized to pay said Rents to Mortgagee without regard to the truth of Mortgagee's statement of an Event of Default and notwithstanding notices from Mortgagor disputing

the existence of an Event of Default such that the payment of rent by the lessee to Mortgagee pursuant to such a demand shall constitute performance in full of the lessee's obligation under the Lease for the payment of Rents by the lessee to Mortgagor; and (e) after deducting all costs of collection and administration expense, apply the net Rents and profits to the payment of Impositions, insurance premiums and all other carrying charges (including, without limitation, agents' compensation and fees and reasonable costs of counsel to the extent permitted by law, and receivers) and to the maintenance, repair or restoration of the Premises, or, except as otherwise provided in the Credit Agreement, on account and in reduction of the Obligations in such order and amounts as Mortgagee in Mortgagee's sole discretion may elect. Mortgagee shall be liable to account only for Rents and profits actually received by Mortgagee.

25. Expenses of Mortgagee and/or the Secured Parties All sums (including reasonable attorneys' fees and disbursements, to the extent permitted by law) paid by Mortgagee and/or any of the Secured Parties in connection with any litigation to prosecute or defend the rights and obligations created by this Mortgage, with interest thereon at the default interest rate specified in Section 2.9 of the Credit Agreement from the time of payment by Mortgagee and/or any of the Secured Parties shall, on demand, be immediately due from Mortgagor to Mortgagee and/or any such Secured Party and shall be added to and included in the Obligations and shall be secured by this Mortgage.

26. Mortgagor's Waivers

(a) Mortgagor, for itself and its successors and assigns, hereby irrevocably waives and releases, to the extent permitted by law, whether now or hereafter in force, (i) the benefit of any and all valuation and appraisement laws, (ii) any right of redemption whether statutory or otherwise, in respect of the Property, (iii) any applicable

homestead or dower laws, (iv) all exemption laws whatsoever and all moratoriums, extensions or stay laws or rules, or orders of court in the nature of any one or more of them, (v) any right to have any of the Property marshalled upon foreclosure of this Mortgage, (vi) the right to interpose any set-off, recoupment, counterclaim or cross-claim in any litigation in any court with respect to, in connection with, or arising out of this Mortgage or any of the other Credit Documents unless such set-off, recoupment, counterclaim or cross-claim could not, by reason of the applicable Federal or State procedural laws, be interposed, pleaded or alleged in any other action, and (vii) trial by jury in connection with any litigation arising out of this Mortgage or any of the other Credit Documents and any right it may have to claim or recover in any such litigation any special, exemplary, punitive or consequential damages or any damages other than, or in addition to, actual damages.

(b) Mortgagee, for itself and its successors and assigns, hereby irrevocably waives and releases, to the extent permitted by law, whether now or hereafter in force, trial by jury in connection with any litigation arising out of this Mortgage or any of the other Credit Documents.

27. Partial Foreclosure Mortgagee may from time to time, if permitted by law, take action to recover any sums, whether interest, principal or any other sums, required to be paid under this Mortgage or any other Credit Document as the same become due, without prejudice to the right of Mortgagee thereafter to bring an action of foreclosure, or any other action, for an Event of Default by Mortgagor existing when such earlier action was commenced. Mortgagee may also foreclose this Mortgage for any sums due under this Mortgage or any other Credit Document and the lien of this Mortgage shall continue to secure the balance of the Obligations due.

28. No Waiver; Rights Cumulative No failure or delay on the part of Mortgagee or any of the Secured Parties in the exercise of any power, right or privilege hereunder or under any other Credit Document shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other power, right or privilege. The rights, powers and remedies given to Mortgagee and each of the Secured Parties hereby are cumulative and shall be in addition to and independent of all rights, powers and remedies existing by virtue of any statute or rule of law or in any of the other Credit Documents. Any forbearance or failure to exercise, and any delay in exercising, any right, power or remedy hereunder shall not impair any such right, power or remedy or be construed to be a waiver thereof, nor shall it preclude the further exercise of any such right, power or remedy.

29. Attorneys' Fees If this Mortgage shall be foreclosed, or if any of the Credit Documents is placed in the hands of an attorney for collection or is collected through any court, including any bankruptcy court, there shall be included in the computation of the sums secured hereby, to the extent permitted by law, the amount of a reasonable fee for the services of the attorney retained by Mortgagee in the foreclosure action or proceeding, and all disbursements, costs, allowances and additional allowances provided by law.

30. Interest After Maturity The Obligations secured by this Mortgage shall bear interest from and after maturity, whether or not resulting from acceleration, at the default interest rate specified in Section 2.9 of the Credit Agreement, but this shall not constitute an extension of time for payment of the Obligations.

31. No Credit for Taxes Mortgagor shall not claim or demand or be entitled to any credit or credits on account of any of the sums secured hereby by reason of the Impositions assessed against all or any part of the Property or for any payments made on account thereof. No deductions shall be made or claimed from the taxable value of all or any part of the Premises by reason of this Mortgage.

32. Liens This Mortgage is and shall be maintained as a valid first lien on the Property subject only to any encumbrances created pursuant to the Credit Documents and the Existing Liens and the Permitted Liens, if any. Notwithstanding any provision in the Credit Documents to the contrary, Mortgagor shall not, directly or indirectly, create or suffer or permit to be created, or to stand, against the Property or any portion thereof, or against the Rents, issues and profits therefrom, any lien, charge, mortgage, deed of trust, adverse claim or other encumbrance (herein collectively referred to as a **"lien"**), whether senior or junior in lien to this Mortgage, other than the lien of (i) this Mortgage and (ii) the Permitted Liens (including easements, rights-of-way, restrictions, encroachments, minor defects or irregularities in title and other similar charges, in each case which do not and will not interfere in any material respect with the use or value thereof; provided, however, that Mortgagor shall give Mortgagee at least twenty (20) days prior written notice of any Permitted Lien described in the parenthetical to clause (ii) above which is to be created after the date hereof together with a reasonably detailed description thereof; and provided, further, that nothing contained in this Paragraph shall require Mortgagor to pay any real estate taxes or other Impositions prior to the time when same are required to be paid under this Mortgage. Mortgagor will keep and maintain all of the Premises free from all liens of Persons supplying labor or materials relating to the construction, alteration, modification or repair of the Premises. If any such lien shall be filed against any of the Property, Mortgagor agrees to discharge the same of record (by payment, bonding or otherwise) within 10 days of notice of the filing thereof. No financing statement, conditional bill of sale or chattel mortgage shall be made or filed against any Building Equipment without the prior consent of Mortgagee and if at any time there should be any (with or without the consent of Mortgagee), then upon the occurrence and during the continuance of an Event of Default, all right, title and interest of Mortgagor in and to all deposits and payments made thereon are hereby assigned to Mortgagee.

33. Change in Taxation In the event of the enactment of or change in (including, without limitation, a change in interpretation of) any applicable law (a) deducting or allowing Mortgagor to deduct from the value of the Property for the purpose of taxation any lien or security interest thereon, (b) imposing, modifying or deeming applicable any reserve or special requirement against deposits in or for the account of, or loans by, or other liabilities of, or other assets held by Mortgagee or any of the Secured Parties, or (c) subjecting Mortgagee or any of the Secured Parties to any tax or changing the basis of taxation of mortgages, deeds of trust, or other liens or debts secured thereby,

or the manner of collection of such taxes, in each such case, so as to affect this Mortgage, the Obligations, Mortgagee or any of the Secured Parties, and the result is to increase the taxes imposed upon or the cost to Mortgagee or any of the Secured Parties of maintaining the Obligations, or to reduce the amount of any payments receivable hereunder or under the other Credit Documents, then, and in any such event, Mortgagor shall, on demand, pay to Mortgagee for the account of Mortgagee or any of the Secured Parties, as the case may be, such additional amounts as may be required to compensate for such increased costs or reduced amounts, provided that if any such payment or reimbursement shall be unlawful or would constitute usury under applicable law, then Mortgagee may, at its option, require Mortgagor to make a partial repayment of the Obligations in an amount equal to the then value of the Premises.

34. Assignment of Leases and Rents Mortgagor absolutely and unconditionally assigns to Mortgagee the Rents, issues and profits of the Premises as further security for the payment of the Obligations and Mortgagor grants to Mortgagee during the existence of an Event of Default the right to enter the Premises for the purpose of collecting the same and to let the Premises, or any part thereof, and, except as otherwise provided in the Credit Agreement, to apply said Rents, issues and profits, after payment of all necessary charges and expenses, on account of the Obligations. This assignment and grant shall continue in effect until the payment in full of the Obligations, the cancellation or termination of the Commitments and the cancellation or expiration of all outstanding Letters of Credit. Mortgagee hereby waives the right to enter the Premises for the purpose of collecting said Rents, issues and profits, and Mortgagor shall be entitled to collect, receive and use said Rents, issues and profits, until the occurrence and during the continuance of and Event of Default. During the continuance of any Event of Default, the right of Mortgagor to collect, receive and use said Rents, issues and profits, shall be revoked forthwith. Further, from and after delivery of written notice of such revocation, constructive possession of the Premises shall be vested in Mortgagee, and this assignment shall be activated and perfected. Notwithstanding the foregoing, this assignment shall also be activated and perfected upon Mortgagee's exercising, upon the occurrence and during the continuance of an Event of Default, any of the following remedies pursuant to this Mortgage: (i) taking actual possession of the Premises; (ii) moving or applying for the appointment of a receiver; (iii) filing or commencing an action to foreclose this Mortgage; or (iv) collecting the Rents directly from the tenant(s). Mortgagor shall, from time to time after request by Mortgagee, execute, acknowledge and deliver to Mortgagee, in form reasonably satisfactory to Mortgagee, separate assignments effectuating the foregoing. Neither Mortgagee nor the Secured Parties shall be obligated to perform or discharge any obligation or duty to be performed or discharged by Mortgagor under any Lease or other agreement affecting all or any part of the Premises, and Mortgagor hereby agrees to indemnify Mortgagee and the Secured Parties for and hold them harmless from, any and all liability arising from any such Lease or other agreement or any assignments thereof, and no assignment of any such Lease or other agreement shall place the responsibility for the control, care, management or repair of all or any part of the Premises upon Mortgagee or the Secured Parties, nor make Mortgagee or the other Secured Parties liable for any negligence in the management, operation, upkeep, repair or control of all or any part of the Premises resulting in injury, death or property damage. In addition, after the occurrence and during the continuance of

an Event of Default and following the giving of notice to Mortgagor, Mortgagor will pay monthly in advance to Mortgagee, or to any receiver appointed to collect said Rents, issues and profits, the fair and reasonable rental value for the use and occupancy of the Premises or of such part thereof as may be in the possession of Mortgagor, and upon default in any such payment will vacate and surrender the possession thereof to Mortgagee or to such receiver, and in default thereof may be evicted by summary or other proceedings.

35. Security Agreement It is the intention of the parties hereto that this instrument shall constitute a Security Agreement and a Financing Statement within the meaning of the Uniform Commercial Code as enacted in the state in which the Land is located with respect to the personalty and fixtures comprising a part of the Property, and that a security interest shall attach thereto for the benefit of Mortgagee, as secured party, to further secure the Obligations. Mortgagor hereby authorizes Mortgagee to file financing and continuation statements with respect to such collateral in which Mortgagor has a mortgageable interest, without the signature of Mortgagor whenever lawful, and upon request, Mortgagor shall promptly execute financing and continuation statements in form satisfactory to Mortgagee to further evidence and secure Mortgagee's interest in such collateral, and shall pay all filing fees in connection therewith. In the event of the occurrence and during the continuance of an Event of Default, Mortgagee, pursuant to the applicable provision of the Uniform Commercial Code, shall have the option of proceeding as to both real and personal property in accordance with its rights and remedies in respect of the real property, in which event the default provisions of the Uniform Commercial Code shall not apply. The parties agree that in the event Mortgagee elects to proceed with respect to collateral constituting personalty or fixtures separately from the real property, without demand, notice or advertisement whatsoever except that where an applicable statute requires reasonable notice of sale or the dispositions, the giving of ten (10) days' notice by Mortgagee to Mortgagor, shall be deemed to be reasonable notice thereof and Mortgagor waives any other notice with respect thereto.

36. No Release Neither Mortgagor nor any other Person now or hereafter obligated for the payment or performance of all or any portion of the Obligations shall be released from paying such Obligations and the lien of this Mortgage shall not be affected by reason of (a) the failure of Mortgagee or any of the Secured Parties to comply with any request of Mortgagor, or of any other Person so obligated, to take action to foreclose this Mortgage or otherwise enforce any of the provisions of this Mortgage or of any of the covenants and agreements of Mortgagor under the Credit Documents, (b) the release, regardless of consideration, of the whole or any part of the security held for the Obligations, (c) the release, regardless of consideration, of the obligations of any Person or Persons liable for payment or performance of all or any portion of the Obligations, or (d) any agreement or stipulation extending the time of payment or modifying the terms of any of the Credit Documents, and in the event of such agreement or stipulation, Mortgagor and all such other Persons shall continue to be liable under the Credit Documents, as amended by such agreement or stipulation, unless expressly released and discharged in writing by Mortgagee and the Secured Parties.

37. Notices All notices, consents and other communications provided for herein shall be sent to such Person's address as follows (or to such other address indicated in an unrevoked written notice from such Person given in accordance the terms of this Paragraph):

(a) if to Mortgagor, Douglas Dynamics, L.L.C., 7777 North 73rd Street, Milwaukee, WI 53223, Attention: Chief Executive Officer and President, Telecopy No.: (414) 354-8448, with a copy to Aurora Capital Group, 10877 Wilshire Boulevard, Suite 2100, Los Angeles, CA 90024, Attention: Secretary, Douglas Dynamics Holdings, Inc., Telecopier No.: (310) 824-2791, with a copy to Gibson, Dunn & Crutcher LLP, 333 S. Grand Avenue, Los Angeles, CA 90071, Attention: Jeff R. Hudson, Esq., Telecopy No.: 213-229-6332; and

(b) if to Mortgagee or Collateral Agent, at Credit Suisse, Cayman Islands Branch, Eleven Madison Avenue, New York, NY 10010, Attention: Ian Nalitt, Telecopy No.: (212) 325-8615, with a copy to Skadden Arps Slate Meagher & Flom LLP, 300 South Grand Avenue, Suite 3400, Los Angeles, CA 90071-3144, Attention: David Kitchen, Esq., Telecopy No.: (213) 621-5280; and

(c) if to any of the Secured Parties, at the address set forth below such Secured Party's name on the signature pages of the Credit Agreement.

Each notice hereunder shall be in writing and may be personally served, telexed or sent by telefacsimile or United States mail or courier service and shall be deemed to have been given when delivered in person or by courier service and signed for against receipt thereof, upon receipt of telefacsimile or telex, or three (3) Business Days after depositing it in the United States mail with postage prepaid and properly addressed; provided, no notice to Mortgagee shall be effective until received by Mortgagee.

38. Severability In case any provision in or obligation hereunder shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

39. Intentionally Deleted

40. Indemnification Against Liabilities Mortgagor will defend, indemnify, pay and hold harmless Mortgagee and the Secured Parties and their respective officers, partners, directors, trustees, employees, agents and Affiliates of Mortgagee and each of the Secured Parties from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind (including, without limitation, reasonable attorneys' fees and expenses) imposed upon or incurred by or asserted against Mortgagee and any of the Secured Parties by reason of (a) ownership of a mortgagee's or participating lender's interest in the Property, (b) any accident or injury to or death of Persons or loss of or damage to or loss of the use of property occurring on or about the Premises or any part thereof or the adjoining sidewalks, curbs, vaults and vault spaces, if any, streets, alleys or ways, unless

due to the willful misconduct of Mortgagee or such Secured Party, (c) any use, nonuse or condition of the Premises or any part thereof or the adjoining sidewalks, curbs, vaults and vault spaces, if any, streets, alleys or ways, (d) any failure on the part of Mortgagor to perform or comply with any of the terms of this Mortgage, (e) performance of any labor or services or the furnishing of any materials or other property in respect of the Premises or any part thereof made or suffered to be made by or on behalf of Mortgagor, (f) any negligence or tortious act on the part of Mortgagor or any of its agents, contractors, lessees, licensees or invitees, or (g) any work in connection with any alterations, changes, new construction or demolition of the Premises. All amounts payable to Mortgagee and the Secured Parties under this Paragraph shall be payable promptly on demand and shall be deemed indebtedness and Obligations secured by this Mortgage and any such amounts shall bear interest at the default interest rate specified in Section 2.9 of the Credit Agreement from the date of such demand. In case any action, suit or proceeding is brought against Mortgagor, Mortgagee and/or any of the Secured Parties by reason of any such occurrence, Mortgagor, upon request of Mortgagee or any of the Secured Parties will, at Mortgagor's expense, resist and defend such action, suit or proceeding or cause the same to be resisted or defended by counsel designated by Mortgagee or such Secured Party and approved by Mortgagor.

41. No Oral Changes This Mortgage and its provisions cannot be changed, waived, discharged or terminated orally but only by an agreement in writing, signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

42. Governing Law THE PROVISIONS OF THIS MORTGAGE REGARDING THE CREATION, PERFECTION AND ENFORCEMENT OF THE LIENS AND SECURITY INTERESTS HEREIN GRANTED SHALL BE GOVERNED BY AND CONSTRUED UNDER THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED. ALL OTHER PROVISIONS OF THIS MORTGAGE AND THE RIGHTS AND OBLIGATIONS OF MORTGAGOR AND MORTGAGEE SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPALS THEREOF.

43. Construction This Mortgage shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument or any portion thereof to be drafted.

44. Headings Paragraph headings herein are included herein for convenience of reference only and shall not constitute a part hereof for any other purpose or be given any substantive effect.

45. After Acquired Property All property of every kind which is hereafter acquired by Mortgagor which, by the terms hereof, is required or intended to be subjected to the lien of this Mortgage shall, immediately upon the acquisition thereof by Mortgagor, and without any further giving of a deed of trust and/or mortgage, conveyance, assignment or transfer, become subject to the lien of this Mortgage.

46. Further Assurances Mortgagor shall execute, acknowledge and deliver to Mortgagee any documents and instruments which Mortgagee may reasonably request from time to time for the better assuring, conveying, assigning, transferring, confirming or perfecting of Mortgagee's security and rights under this Mortgage, in form and substance reasonably satisfactory to Mortgagee.

47. Definitions The following terms shall, for all purposes of this Mortgage, have the respective meanings herein specified unless the context otherwise requires and such meanings shall apply equally to the singular and plural forms of such defined terms unless a definition is provided herein for both the singular and plural form of such defined term:

(a) **"Lease"** shall mean every lease or occupancy agreement for the use or hire of all or any portion of the Premises, which shall be in effect at the date hereof or which shall hereafter be entered into by or on behalf of Mortgagor.

(b) **"Rents"** shall mean all rents, rent equivalents, moneys payable as damages or in lieu of rent or rent equivalents, royalties (including, without limitation, all oil and gas or other mineral royalties and bonuses), income, receivables, receipts, revenues, deposits (including, without limitation, security, utility and other deposits), accounts, cash, issues, profits, charges for services rendered, and other consideration of whatever form or nature received by or paid to or for the account of or benefit of Mortgagor or its agents or employees from any and all sources arising from or attributable to the Land and the Building, including, without limitation, all receivables, customer obligations, installment payment obligations and other obligations now existing or hereafter arising or created out of the sale, lease, sublease, license, concession or other grant of the right of the use and occupancy of property, and proceeds, if any, from business interruption or other loss of income insurance.

48. Successors and Assigns The terms, covenants and provisions of this Mortgage shall apply to and be binding upon Mortgagor and the successors and assigns of Mortgagor and shall inure to the benefit of Mortgagee, the Secured Parties and their respective successors and assigns. All grants, covenants, terms, provisions, and conditions contained herein shall run with the Land.

49. Credit Agreement In the event of any inconsistency or conflict between the terms and provisions of the Credit Agreement and this Mortgage, the terms and provisions of the Credit Agreement shall control.

50. State Specific Provisions

(a) Applicability of Maine Law: Notwithstanding anything else contained herein to the contrary, where provisions contained in this Section 50 conflict with other provisions of this Mortgage, these provisions shall control.

(b) Statutory Condition: This Mortgage is given upon the STATUTORY CONDITION, which is incorporated herein by reference. To the extent that the provisions of this Mortgage and the provisions set forth in the Statutory

Conditions conflict, the provisions of this Mortgage shall control to the extent permitted by applicable law.

(c) Statutory Power of Sale: If any Event of Default shall occur, the Mortgagee shall have the right to foreclose this Mortgage under any legal method of foreclosure in existence at the time or now existing, or under any other applicable law, including, without limitation, the **STATUTORY POWER OF SALE**, which is expressly incorporated herein by reference, to the extent authorized or allowed by any present or future law of the State of Maine. In connection therewith, Mortgagor acknowledges that this Mortgage secures a loan or loans for business and commercial purposes and that this Mortgage is given primarily for a business, commercial or agricultural purpose.

(d) Non-Waiver: Mortgagor agrees for itself, its successor and assigns, that the acceptance, before the expiration of the right of redemption and after the commencement of foreclosure proceedings of this Mortgage, of insurance proceeds, eminent domain awards, rents or anything else of value to be applied on or to the Secured Obligations by the Mortgagee, the Lenders or any person or party holding under Lender shall not constitute a waiver of such foreclosure by the Mortgagee or waiver of the failure of performance by the Mortgagor of any covenants or agreements contained herein, in the other Credit Documents, or in the Credit Agreement. This agreement by Mortgagor shall be that agreement referred to in 14 M.R.S.A. § 6204, as amended, as necessary to prevent such waiver of foreclosure. This agreement by Mortgagor is intended to apply to the acceptance and such applications of any such insurance proceeds, eminent domain awards, rents and other sums or anything else of value, whether the same shall be accepted from, or for the account of, Mortgagor or from any other sources whatsoever by the Mortgagee, or by any person or party holding under Mortgagee at any time or times in the future while any portion of the Obligations shall remain outstanding.

(e) Open-ended Mortgage; Limitations: This Mortgage is an open-end mortgage, which secures existing indebtedness, "Future Advances" "Contingent Obligations" and "Protective Advances" as such terms are defined in 33 M.R.S.A. § 505. The maximum aggregate amount of all debts or obligations secured by this Mortgage, including Future Advances and Contingent Obligations, but excluding Protective Advances, shall not at any time exceed the total amount of $170,000,000. The future advances secured hereby shall be made those advances made to or for the account of Mortgagor and may be made under the Credit Agreement and the Credit Documents, as the same may be amended, or may be made pursuant to promissory notes, line of credit agreements or other instruments evidencing such future advances which may be hereafter executed and delivered by Mortgagor to Mortgagee. In the event that any notice described in subsections 5(a) and 5(b) of 33 M.R.S.A. § 505 is recorded or is received by Mortgagee, any commitment, agreement or obligation to make future advances to or for the benefit of Mortgagor shall immediately cease.

(f) Financing Statement: This instrument constitutes a financing statement under Article 9-A of the Maine Uniform Commercial Code covering the Building Equipment, fixtures, and the other items and types of collateral included within

the Property and described in this Mortgage. For purposes of this Section 50(f), the debtor is Mortgagor and the secured party is the Mortgagee. The mailing address of the secured party (Mortgagee) from which information concerning the security interest may be obtained and the mailing address of the debtor (Mortgagor), are set forth below:

Mortgagee:

Credit Suisse, Cayman Islands Branch, as Collateral Agent
Eleven Madison Avenue
New York, NY 10010
Attention: Ian Nalitt

Mortgagor:

Douglas Dynamics, L.L.C.
7777 North 73rd Street
Milwaukee, WI 53223
Attention: Chief Executive Officer and President

(g) The employer identification number of Mortgagor is 42-1623692. The organization identification number of Mortgagor is 3781861.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be executed under seal as of the day and year first above written.

Mortgagor:

DOUGLAS DYNAMICS, L.L.C.

By: _____
Name:
Title:

STATE OF
COUNTY OF , ss

On May , 2007, personally appeared before me, the above named , as of said Douglas Dynamics, L.L.C., and acknowledged the foregoing instrument to be his/her free act and deed in said capacity and the free act and deed of said limited liability company.

_____
Notary Public
Typed or Printed Name:

Exhibit A

Description of the Land

(attached hereto)

25

Exhibit B

Existing Liens

1. All those exceptions to title set forth on Exhibit B to Loan Policy No. M-5847(A) issued by Lawyers Title Insurance Corporation.

2. Those liens and security interests granted in favor of the ABL Collateral Agent disclosed by the Intercreditor Agreement.

26

**MORTGAGE, ASSIGNMENT OF LEASES,
RENTS AND PROFITS AND SECURITY AGREEMENT**

DOUGLAS DYNAMICS, L.L.C.

Mortgagor

to

CREDIT SUISSE, CAYMAN ISLANDS BRANCH
in its capacity as Collateral Agent for the Secured Parties
Eleven Madison Avenue
New York, New York 10010

Mortgagee

DATED: As of May 21, 2007

Premises located in:
Milwaukee, Wisconsin

Record and Return to:
Skadden Arps Slate Meagher & Flom LLP
300 South Grand Avenue
Los Angeles, California 90071
Attn: Eric Lee, Esq.

INDEX

MORTGAGE, ASSIGNMENT OF LEASES, RENTS AND PROFITS AND SECURITY AGREEMENT

THIS MORTGAGE, ASSIGNMENT OF LEASES, RENTS AND PROFITS AND SECURITY AGREEMENT(this **"Mortgage"**) made as of this 21st day of May, 2007 by **DOUGLAS DYNAMICS, L.L.C.,** a Delaware limited liability company having an office at 7777 North 73rd Street, Milwaukee, Wisconsin 53223 (the **"Mortgagor"**), to **CREDIT SUISSE, CAYMAN ISLANDS BRANCH** (**"Credit Suisse"**), as collateral agent (in such capacity, and together with its successors and assigns, the **"Mortgagee"**), having an office at Eleven Madison Avenue, New York, New York 10010, for the Secured Parties (as such term and other capitalized terms used but not otherwise defined herein are defined in the Credit Agreement, defined below).

W I T N E S S E T H:

WHEREAS, Mortgagor is the owner of the fee interest in those certain parcels of land lying and being situated in the City of Milwaukee, Milwaukee County, Wisconsin, as more particularly described in Exhibit A attached hereto;

WHEREAS, Mortgagor, as Borrower, Fisher, LLC, a Delaware limited liability company ("**Fisher**"), Douglas Dynamics Finance Company, a Delaware corporation ("**DD Finance**"), and Douglas Dynamics Holdings, Inc., a Delaware corporation ("**Holdings**"), as Guarantors, the banks and financial institutions listed on the signature pages thereof (together with their respective successors and assigns, each individually referred to herein as a "**Lender**" and collectively as "**Lenders**"), Credit Suisse, Cayman Islands Branch, as sole bookrunner, sole lead arranger, syndication agent, documentation agent, administrative agent for the Lenders ("**Term Administrative Agent**"), and as collateral agent for the Lenders, have entered into that certain Credit and Guaranty Agreement, dated as of May 21, 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the **"Credit Agreement"**), pursuant to which Lenders have agreed to make, and Mortgagee has agreed to administer, certain credit facilities in an aggregate amount not to exceed $85,000,000, which extensions of credit shall be used for the purposes permitted under the Credit Agreement, upon the terms and conditions contained in the Credit Agreement; and

WHEREAS, Mortgagor has agreed to execute and deliver to Mortgagee this Mortgage in order to better secure Mortgagor's performance of Mortgagor's obligations under the Credit Agreement and under any of the other Credit Documents;

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and other good and valuable consideration, including Mortgagee's entering into the Credit Agreement, the receipt and legal sufficiency of which are hereby expressly acknowledged by all parties, to secure the full and complete payment and performance of the Obligations, including Mortgagor's performance of Mortgagor's obligations pursuant to the Credit Agreement, this Mortgage and the other Credit Documents, Mortgagor and Mortgagee hereby agree as follows:

Mortgagor does hereby grant, pledge, mortgage, warrant, sell, transfer, assign, and convey unto Mortgagee subject only to the Permitted Liens and Existing Liens (defined below), all of its right, title and interest in the following (collectively, the **"Property"**):

A. All that certain land located in the City of Milwaukee, Milwaukee County, Wisconsin, and more particularly described in Exhibit A annexed hereto and made a part hereof (collectively, the **"Land"**).

B. All the buildings, structures and improvements, now or at any time hereafter erected on the Land or any part thereof (collectively, the **"Buildings"**).

C. All machinery, apparatus, equipment, personal property and fixtures of every kind and nature whatsoever now or hereafter located in, on or about any one or more of the Buildings or upon the Land, or attached to or used or useable in connection with the operation or maintenance of the Land or any one or more of the Buildings, or any part thereof, and now owned or hereafter acquired (collectively, the **"Building Equipment"**; the Land, the Buildings and the Building Equipment being hereafter sometimes collectively referred to as the **"Premises"**).

D. All right, title and interest of Mortgagor, whether now owned or hereafter acquired, in and to any opened or proposed avenues, streets, roads, public places, sidewalks, alleys, strips or gores of land, in front of or adjoining the Land or any one or more of the Buildings and all easements, tenements, hereditament, appurtenances, rights and rights of way, public or private, pertaining or belonging to the Land or any one or more of the Buildings.

E. All insurance proceeds and all awards and payments, subject to applicable provisions of this Mortgage, including interest thereon, and the right to receive the same, which may be made in respect of all or any part of any of the Premises or any estate or interest therein or appurtenant thereto, as a result of damage to or destruction of all or any part of any of the Premises, the exercise of the right of condemnation or eminent domain, the closing of, or the alteration of the grade of, any street on or adjoining the Land, or any other injury to or decrease in the value of all or any part of any of the Premises.

F. All right, title and interest of Mortgagor in and to any and all present and future Leases (as defined in Paragraph 47) of all or any part of the Premises, and in and to the rents, issues and profits payable thereunder and cash or securities deposited thereunder as lessees' security deposits.

G. All franchises, permits, licenses and rights therein respecting the use, occupation and operation of the Premises or the activities conducted thereon or therein.

H. All right, title and interest of Mortgagor in and to any minerals, oil or gas located on, under or appurtenant to the Land.

I. All right, title and interest of Mortgagor in and to any tax refunds with respect to the Premises.

J. To the extent assignable, all of Mortgagor's interest in and to all agreements, contracts, certificates, instruments and other documents, now or hereafter entered into, pertaining to the construction, operation or management of the Premises and all right, title and interest of Mortgagor therein (collectively, the **"Contracts"**).

K. All of Mortgagor's interest in and to all easements, rights, licenses, privileges and appurtenances including, without limitation, development and air rights now or hereafter belonging or in any way appertaining to the Land.

L. All of the estate and rights of Mortgagor now or hereafter acquired in and to land lying in streets, roads, ways and alleys, open or proposed, adjoining or contiguous to the Land.

M. The rents, issues and profits of any of the foregoing.

TO HAVE AND TO HOLD the Property unto Mortgagee, its successors and assigns, forever. Provided, that if (i) Mortgagor shall perform all obligations hereunder and (ii) the Obligations are paid in full, the Commitments are cancelled or terminated and all outstanding Letters of Credit are cancelled or have expired, then this Mortgage shall be released without warranty, at the cost and request of Mortgagor.

AND MORTGAGOR COVENANTS, REPRESENTS AND WARRANTS TO AND FOR THE BENEFIT OF MORTGAGEE AND THE SECURED PARTIES AS FOLLOWS:

1. Payment of Obligations and Performance of Covenants and Agreements Mortgagor shall pay or perform the Obligations when due in accordance with the provisions of the Credit Agreement, this Mortgage, and the other Credit Documents and perform the covenants and agreements of Mortgagor set forth in the Credit Documents.

2. Title to Property Mortgagor represents and warrants that (a) it owns good and marketable fee simple title to the Premises, (b) it has the good and unrestricted right, full power and lawful authority to make this Mortgage in accordance with the terms hereof, (c) Mortgagor has obtained any and all consents and approvals necessary or required for the making of this Mortgage, and the making of this Mortgage will not violate any contract or agreement to which Mortgagor is a party or by which the Property is bound, and (d) the Premises is free of all liens, encumbrances, adverse claims and other defects of title whatsoever except those items listed on Exhibit B annexed hereto and made a part hereof (collectively, the **"Existing Liens"**) and Permitted Liens. Mortgagor does hereby and shall forever warrant and defend its title to and interest in the Property and the validity and priority of the lien of this Mortgage, subject to the Existing Liens and the Permitted Liens, to Mortgagee and the Secured Parties, their respective successors and assigns, against all claims and demands whatsoever of any Person or Persons. As of the date hereof, there are no defenses or offsets to this Mortgage or to the Obligations.

3. Intercreditor AgreementNotwithstanding anything herein to the contrary, and regardless of the priority of recordation of this Mortgage, the lien and security interests granted to the Mortgagee pursuant to this Mortgage and the exercise of any right or remedy by such Mortgagee hereunder are subject to the provisions of that certain Intercreditor Agreement, dated as of May 21, 2007 (the "**Intercreditor Agreement**"), by and among Mortgagor, Fisher, DD Finance, Holdings, Mortgagee, Term Administrative Agent, Credit Suisse, in its capacity as administrative agent under the ABL Loan Documents (as defined therein), and JPMorgan Chase Bank, N.A., in its capacity as collateral agent under the ABL Loan Documents (together with its successors and assigns from time to time in such capacity, the "**ABL Collateral Agent**"). In the event of any conflict between the terms of the Intercreditor Agreement and this Mortgage, the terms of the Intercreditor Agreement shall govern.

4. Future Advances Without limiting the generality of any other provision hereof, or the terms and provisions of the Credit Agreement, the Obligations shall include, without limitation: (a) all existing indebtedness of Mortgagor to Mortgagee and/or any of the Secured Parties evidenced by any of the Credit Documents; (b) all future advances that may subsequently be made by Mortgagee and/or the Lenders as provided by any of the Credit Documents; and (c) all other indebtedness, if any, of Mortgagor to Mortgagee and/or any of the Secured Parties now due or to become due or hereafter contracted pursuant to any of the Credit Documents; provided that the maximum principal amount of all existing indebtedness, future advances, readvances of sums repaid and all other indebtedness secured hereby at any one time shall not exceed the total sum of $170,000,000 (exclusive of interest thereon, attorneys' fees and costs, taxes, insurance premiums and all other obligations hereunder).

5. Insurance

(a) Mortgagor shall maintain in full force and effect with respect to the Premises the insurance as required by Section 5.5 of the Credit Agreement.

(b) In the event of a foreclosure of this Mortgage or other action or proceeding taken by Mortgagee pursuant to this Mortgage, the purchaser of the

Premises shall succeed to all of the rights of Mortgagor, including any right to unearned premiums, in and to all policies of insurance which Mortgagor is required to maintain under Paragraph 5(a) and to all proceeds of such insurance.

6. Impositions

(a) Mortgagor shall pay, not later than the final delinquency date thereof (and if payable in installments, not later than the installment final delinquency date), all real estate taxes, personal property taxes, assessments, water rates and sewer rents, license fees, all charges which may be imposed for the use of vaults, chutes, areas and other space beyond the lot line and abutting the public sidewalks in front of or adjoining the Land, and any other amounts which could be or become a lien upon or against the Property or any part thereof (collectively, the **"Impositions"**); provided, no such Imposition need be paid if it is being contested in good faith by appropriate proceedings

promptly instituted and diligently conducted, so long as adequate reserve or other appropriate provision, as shall be required in conformity with GAAP shall have been made therefor. Notwithstanding the foregoing, Mortgagor shall promptly, and in any event on demand, pay such contested Imposition if at any time all or any part of the Property shall be in danger of being foreclosed, sold, forfeited, or otherwise lost or if such contest shall be discontinued. During the continuance of any Event of Default, upon demand by Mortgagee, Mortgagor will pay the whole of any assessment (an **"Assessment"**) for local improvements which may be payable in installments, notwithstanding that such installments may not be due and payable at the time of such demand.

(b) Mortgagor shall, upon request of Mortgagee, deliver to Mortgagee, within twenty (20) days after the final delinquency date thereof of any Imposition or Assessment, receipts evidencing such payment or other proof of payment satisfactory to Mortgagee.

7. Maintenance and Alterations Mortgagor will maintain or cause to be maintained in good repair, working order and condition, ordinary wear and tear excepted, the Premises and from time to time will make or cause to made all appropriate repairs, renewals and replacements thereof.

8. Leasing Mortgagor represents that there are no Leases now in effect. Mortgagor shall not enter into any Lease of all or any part of any of the Premises without in each instance obtaining Mortgagee's prior written consent thereto, which consent shall not be unreasonably withheld, conditioned or delayed. Mortgagor shall deliver to Mortgagee a duplicate original of each Lease promptly after the execution thereof. At the option of Mortgagee, each Lease, and all renewals, replacements, extensions, and modifications thereof, and all rights of the tenant thereunder, shall be subject and subordinate to this Mortgage, and to each and every advance made or thereafter made hereunder or under the other Credit Documents and to all renewals, additions, amendments, supplements, modifications, consolidations, spreaders, replacements, and extensions of this Mortgage and shall contain provisions obligating the tenants thereunder to attorn to Mortgagee or any purchaser therefrom if Mortgagee or such purchaser succeeds to the interest of Mortgagor under such Lease. Mortgagor shall fully and promptly perform all of the obligations to be performed by the lessor under any and all Leases. Mortgagor shall enforce the performance and observance of each and every obligation to be performed or observed by the lessees under such Leases. Mortgagor shall give prompt notice to Mortgagee of (a) any notice received by Mortgagor of any default by the lessor under any Lease, (b) the commencement of any action or proceeding by any lessee the purpose of which shall be the cancellation of any Lease or a diminution or abatement of the rent payable thereunder, (c) any notice of default given by Mortgagor to the lessee under any Lease, or (d) the interposition by any lessee of any defense or counterclaim in any action or proceeding brought by Mortgagor against such lessee; and Mortgagor will cause a copy of any process, pleading or notice received or served by Mortgagor in reference to any such action, defense or claim to be promptly delivered to Mortgagee. Mortgagor shall hold in trust all security deposits and advance rent given on account of any Lease, and deposit such security in a bank or trust company and shall not

mingle such funds with other funds. Mortgagor shall repay or apply such funds only in accordance with the provisions of the applicable Leases.

9. Recording, Filing and Other Fees Mortgagor shall pay all recording and filing fees, all recording taxes, and all other costs and expenses in connection with the preparation, execution and recordation and other manner of perfection of this Mortgage and any other Credit Documents, and shall reimburse Mortgagee and each of the Secured Parties on demand for all costs and expenses of any kind incurred by Mortgagee or any of the Secured Parties in connection therewith (including, without limitation, reasonable attorneys' fees and disbursements). Mortgagor will, at any time on request of Mortgagee, execute or cause to be executed financing statements, continuation statements, or the like, in respect of any Building Equipment. Mortgagor shall pay all filing fees, including fees for filing continuation statements, in connection with such financing statements.

10. Taxes Imposed on Mortgagee and the Secured Parties Mortgagor shall pay all taxes (except income, inheritance and franchise taxes, taxes on the receipt of debt service payments, or taxes in lieu of any of the foregoing) imposed on Mortgagee or any of the Secured Parties by reason of its ownership of this Mortgage or any of the other Credit Documents.

11. Compliance with Laws, etc. Mortgagor shall comply with the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority (including Environmental Laws), noncompliance with which could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

12. Inspection Mortgagee and its authorized representatives shall have the right, at Mortgagee's option, at reasonable times during normal business hours and upon reasonable prior written notice, and as often as may be reasonably requested, to enter the Premises for the purpose of inspecting the same and any other Collateral.

13. Certificate of Mortgagor Mortgagor, upon request of Mortgagee or any of the Secured Parties, shall certify to Mortgagee or to such Secured Party or to any proposed assignee of or participant in this Mortgage, by an instrument in form reasonably satisfactory to Mortgagee or such Secured Party, duly acknowledged, the amount of the Obligations then owing, whether any offsets or defenses exist against payment or performance of all or any portion of the Obligations and anything else that Mortgagee or such Secured Party might reasonably request, within ten (10) days if the request is made personally, or within fifteen (15) days if the request is made by mail. Mortgagee, Secured Parties and any actual or proposed assignee of or participant in this Mortgage shall have the right to rely on such certification.

14. Condemnation

(a) Mortgagor shall give notice to Mortgagee upon Mortgagor receiving written notice of the commencement of any action or proceeding to take all or any part of the Premises by exercise of the right of condemnation or eminent domain or of any action

or proceeding to close or to alter the grade of any street on or adjoining the Land. Mortgagee may participate in any such action or proceeding in the name of Mortgagee or, whenever necessary, in the name of Mortgagor, and Mortgagor shall deliver to Mortgagee such instruments as Mortgagee shall request to permit such participation.

Mortgagor shall not settle any such action or proceeding or agree to accept any award or payment without the prior written consent of Mortgagee (which consent shall not be unreasonably withheld, conditioned or delayed), and such award or payment and any interest thereon (hereinafter collectively called the **"Award"**) shall be applied in accordance with Section 2.14(b) and Section 2.15 of the Credit Agreement.

(b) The application of any Award toward payment of the Obligations shall not be deemed a waiver by Mortgagee or any of the Secured Parties of its right to receive payment of the balance of the Obligations in accordance with the provisions of the Credit Documents. Mortgagee shall have the right, but shall be under no obligation, to question the amount of the Award, and Mortgagee may accept the same without prejudice to the rights that Mortgagee may have to question such amount. In any such condemnation or eminent domain action or proceeding Mortgagee may be represented by attorneys selected by Mortgagee, and all sums paid by Mortgagee in connection with such action or proceeding (including, without limitation, reasonable attorneys' fees to the extent permitted by law) shall, on demand, be immediately due from Mortgagor to Mortgagee and the same shall be secured by this Mortgage.

(c) Notwithstanding any taking by condemnation or eminent domain, closing of, or alteration of the grade of, any street or other injury to or decrease in value of the Premises by any public or quasi-public authority or corporation, the unpaid principal portion of the Advances shall continue to bear interest at the rate payable pursuant to the applicable Credit Documents until the Award shall have been actually received by Mortgagee, and any reduction in the Obligations resulting from the application by Mortgagee of the Award shall be deemed to take effect only on the date of such receipt.

15. Restoration If the Buildings or the Building Equipment shall be damaged or destroyed, in whole or in part, by fire or other casualty, or by any taking in condemnation proceedings or the exercise of any right of eminent domain, Mortgagor shall promptly restore, replace or rebuild the same to as nearly as possible the value, quality and condition they were in immediately prior to such fire or other casualty or taking, with such alterations or changes as may be approved in writing by Mortgagee which approval shall not be unreasonably withheld or delayed, or apply the amount of any Award or insurance proceeds received with respect thereto, in each case in accordance with Section 2.14(b) and Section 2.15 of the Credit Agreement. Mortgagor shall give prompt notice to Mortgagee of any damage or destruction to the Buildings or Building Equipment by fire or other casualty, as well as the initiation of any condemnation or eminent domain proceeding affecting the same.

16. Default

(a) Any Event of Default under the Credit Agreement shall constitute an Event of Default hereunder and Mortgagee shall have all of the rights of the Administrative Agent and Collateral Agent under the Credit Agreement and all of the remedies hereunder.

(b) All notice and cure periods provided in the Credit Agreement shall run concurrently with any notice and cure periods provided under applicable law.

17. Mortgagee's Right to Perform Mortgagor's Covenants If there shall be an Event of Default, Mortgagee may, at its option, cure such Event of Default, and Mortgagee and its representatives shall have the right to enter the Premises to do so, and the amounts advanced by, and the other costs and expenses of, Mortgagee in curing such Event of Default, with interest from the time of the advances or payments at the Base Rate plus the Applicable Margin, shall, on demand, be immediately due from Mortgagor to Mortgagee and shall be secured by this Mortgage.

18. Contemporaneous Mortgages THIS MORTGAGE IS MADE CONTEMPORANEOUSLY WITH TWO (2) OTHER MORTGAGES OR DEEDS OF TRUST OF EVEN DATE HEREWITH (as any of the same may be amended, supplemented, restated, severed, consolidated, spread, partially released, increased or otherwise modified from time to time, the **"Contemporaneous Mortgages"**) GIVEN TO MORTGAGEE COVERING PROPERTY LOCATED IN THE STATES OF TENNESSEE AND MAINE. The Contemporaneous Mortgages secure the Obligations. Upon the occurrence of an Event of Default, Mortgagee may proceed under this Mortgage and/or the Contemporaneous Mortgages against any of such property and/or the Property in one or more parcels and in such manner and order as Mortgagee shall elect. Mortgagor hereby irrevocably waives and releases, to the extent permitted by law, whether now or hereafter in force, any right to have the property and/or the Property covered by the Contemporaneous Mortgages marshalled upon any foreclosure of this Mortgage or the Contemporaneous Mortgages.

19. Appointment of Receiver After the occurrence and during the continuance of an Event of Default, Mortgagee may apply for the appointment of a receiver of the Rents (as defined in Paragraph 47), issues, and profits of all or any part of the Property from whatever source derived and thereupon it is hereby expressly covenanted and agreed that the court shall forthwith appoint such receiver with the usual powers and duties of receivers in like cases; and said appointment shall be made by the court ex parte as a matter of strict right to Mortgagee, without notice to or demand upon Mortgagor or any Person claiming through or under Mortgagor, and Mortgagee shall be entitled to the appointment of such receiver as a matter of right, to the extent not prohibited by applicable law, without consideration of the value of the Property as security for the amounts due to Mortgagee or the Secured Parties or the solvency of any Person liable for the payment of such amounts. Mortgagor hereby specifically waives the right to object to the appointment of a receiver as aforesaid and hereby expressly consents that such appointment shall be made ex parte and without notice to Mortgagor as an admitted equity and as a matter of absolute right to Mortgagee. In order to maintain and preserve the Property and to prevent waste and impairment of its security, Mortgagee

may, at its option, advance monies to the appointed receiver and all such sums advanced shall become secured obligations and shall bear interest from the date of such advance at the rate of interest specified in Section 2.9 of the Credit Agreement.

20. Power of Sale To the extent permitted by the laws of the State of Wisconsin, Mortgagee is hereby granted a power of sale and may sell any of the Premises (together with the Rents and profits and intangible personalty), or such part or parts thereof or interests therein as Mortgagee may select.

21. Judicial Foreclosure After the occurrence and during the continuance of an Event of Default, Mortgagee may institute an action of foreclosure, or take such other action as the law may allow, at law or in equity, for the enforcement hereof and realization on the Property or any other security which is herein or elsewhere provided for, and proceed thereon to final judgment and execution thereon for the entire principal then outstanding under the Credit Documents, with interest thereon at the rate stipulated in the Credit Documents to the date of default and thereafter at the default interest rate specified in Section 2.9 of the Credit Agreement together with all other sums secured by this Mortgage, all costs of suit, including, without limitation, the expenses which are described in Paragraphs 25 and 29, and interest at the default interest rate specified in Section 2.9 of the Credit Agreement on any judgment obtained by Mortgagee from and after the date of any judicial sale of any of the Property until actual payment. Upon any sale or sales made hereunder, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Mortgagee and/or any of the Secured Parties may bid for and acquire any of the Property or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting against the Obligations the net sales price after deducting therefrom the expenses of the sale and the costs of the action and any other sums which Mortgagee is authorized to deduct under this Mortgage. Except as otherwise provided in the Credit Agreement, the proceeds of such sale shall be applied first to the payment of the costs and charges of such sale, including, without limitation, Mortgagee's attorneys' fees, (to the extent permitted by law), and second to the payment of the Obligations, the surplus money, if any, to be paid to the Person(s) legally entitled thereto (including Mortgagor, to the extent so entitled, if at all). The obligation of Mortgagor to so execute and file such waiver shall survive the termination of this Mortgage. Following a foreclosure sale, the sheriff shall deliver to the purchaser the sheriff's deed (and bill of sale as to any personalty) conveying the property so sold without any covenant or warranty, express or implied.

22. Sale in Parcels In the event of a foreclosure of this Mortgage or upon any sale under this Mortgage pursuant to judicial proceedings or otherwise, the Property may be sold in one parcel and as an entirety or in such parcels, manner or order as Mortgagee in its sole discretion may select.

23. Notice Upon Acceleration Whenever Mortgagee in this Mortgage is given the option to accelerate the maturity of all or part of the Obligations upon the occurrence of an Event of Default, Mortgagee may, to the extent permitted by

law, do so without prior notice or demand to or upon Mortgagor except as otherwise specifically provided herein.

24. Possession of Premises To the extent permitted by law, after the occurrence and during the continuance of an Event of Default, Mortgagee and its agents and any receiver appointed by a court are authorized to (a) take possession of the Premises, with or without legal action, and by force if necessary; (b) lease the Premises or make modifications to or cancel Leases; (c) maintain, repair, alter, and restore the Premises; (d) with or without taking possession, collect all Rents and profits payable under all Leases directly from the lessees thereunder upon notice to each such lessee that an Event of Default exists under this Mortgage accompanied by a demand on such lessee for the payment to Mortgagee of all Rents due and to become due under its Lease, and Mortgagor FOR THE BENEFIT OF MORTGAGEE AND EACH SUCH LESSEE hereby covenants and agrees that the lessee shall be under no duty to question the accuracy of Mortgagee's statement of default and shall unequivocally be authorized to pay said Rents to Mortgagee without regard to the truth of Mortgagee's statement of an Event of Default and notwithstanding notices from Mortgagor disputing the existence of an Event of Default such that the payment of rent by the lessee to Mortgagee pursuant to such a demand shall constitute performance in full of the lessee's obligation under the Lease for the payment of Rents by the lessee to Mortgagor; and (e) after deducting all costs of collection and administration expense, apply the net Rents and profits to the payment of Impositions, insurance premiums and all other carrying charges (including, without limitation, agents' compensation and fees and reasonable costs of counsel to the extent permitted by law, and receivers) and to the maintenance, repair or restoration of the Premises, or, except as otherwise provided in the Credit Agreement, on account and in reduction of the Obligations in such order and amounts as Mortgagee in Mortgagee's sole discretion may elect. Mortgagee shall be liable to account only for Rents and profits actually received by Mortgagee.

25. Expenses of Mortgagee and/or the Secured Parties All sums (including reasonable attorneys' fees and disbursements, to the extent permitted by law) paid by Mortgagee and/or any of the Secured Parties in connection with any litigation to prosecute or defend the rights and obligations created by this Mortgage, with interest thereon at the default interest rate specified in Section 2.9 of the Credit Agreement from the time of payment by Mortgagee and/or any of the Secured Parties shall, on demand, be immediately due from Mortgagor to Mortgagee and/or any such Secured Party and shall be added to and included in the Obligations and shall be secured by this Mortgage.

26. Mortgagor's Waivers Mortgagor, for itself and its successors and assigns, hereby irrevocably waives and releases, to the extent permitted by law, whether now or hereafter in force, (i) the benefit of any and all valuation and appraisement laws, (ii) any right of redemption whether statutory or otherwise, in respect of the Property, (iii) any applicable homestead or dower laws, (iv) all exemption laws whatsoever and all moratoriums, extensions or stay laws or rules, or orders of court in the nature of any one or more of them, (v) any right to have any of the Property marshalled upon foreclosure of this Mortgage, (vi) the right to interpose any set-off, recoupment, counterclaim or cross-claim in any litigation in any court with respect to, in connection with, or arising out of

this Mortgage or any of the other Credit Documents unless such set-off, recoupment, counterclaim or cross-claim could not, by reason of the applicable Federal or State procedural laws, be interposed, pleaded or alleged in any other action, and (vii) any right Mortgagor may have to claim or recover in any litigation arising out of this Mortgage or any of the other Credit Documents any special, exemplary, punitive or consequential damages or any damages other than, or in addition to, actual damages.

27. Partial Foreclosure Mortgagee may from time to time, if permitted by law, take action to recover any sums, whether interest, principal or any other sums, required to be paid under this Mortgage or any other Credit Document as the same become due, without prejudice to the right of Mortgagee thereafter to bring an action of foreclosure, or any other action, for an Event of Default by Mortgagor existing when such earlier action was commenced. Mortgagee may also foreclose this Mortgage for any sums due under this Mortgage or any other Credit Document and the lien of this Mortgage shall continue to secure the balance of the Obligations due.

28. No Waiver; Rights Cumulative No failure or delay on the part of Mortgagee or any of the Secured Parties in the exercise of any power, right or privilege hereunder or under any other Credit Document shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other power, right or privilege. The rights, powers and remedies given to Mortgagee and each of the Secured Parties hereby are cumulative and shall be in addition to and independent of all rights, powers and remedies existing by virtue of any statute or rule of law or in any of the other Credit Documents. Any forbearance or failure to exercise, and any delay in exercising, any right, power or remedy hereunder shall not impair any such right, power or remedy or be construed to be a waiver thereof, nor shall it preclude the further exercise of any such right, power or remedy.

29. Attorneys' Fees If this Mortgage shall be foreclosed, or if any of the Credit Documents is placed in the hands of an attorney for collection or is collected through any court, including any bankruptcy court, there shall be included in the computation of the sums secured hereby, to the extent permitted by law, the amount of a reasonable fee for the services of the attorney retained by Mortgagee in the foreclosure action or proceeding, and all disbursements, costs, allowances and additional allowances provided by law.

30. Interest After Maturity The Obligations secured by this Mortgage shall bear interest from and after maturity, whether or not resulting from acceleration, at the default interest rate specified in Section 2.9 of the Credit Agreement, but this shall not constitute an extension of time for payment of the Obligations.

31. No Credit for Taxes Mortgagor shall not claim or demand or be entitled to any credit or credits on account of any of the sums secured hereby by reason of the Impositions assessed against all or any part of the Property or for any payments made on account thereof. No deductions shall be made or claimed from the taxable value of all or any part of the Premises by reason of this Mortgage.

32. Liens This Mortgage is and shall be maintained as a valid first lien on the Property subject only to any encumbrances created pursuant to the Credit Documents and the Existing Liens and the Permitted Liens, if any. Notwithstanding any provision in the Credit Documents to the contrary, Mortgagor shall not, directly or indirectly, create or suffer or permit to be created, or to stand, against the Property or any portion thereof, or against the Rents, issues and profits therefrom, any lien, charge, mortgage, deed of trust, adverse claim or other encumbrance (herein collectively referred to as a **"lien"**), whether senior or junior in lien to this Mortgage, other than the lien of (i) this Mortgage and (ii) the Permitted Liens (including easements, rights-of-way, restrictions, encroachments, minor defects or irregularities in title and other similar charges, in each case which do not and will not interfere in any material respect with the use or value thereof; provided, however, that Mortgagor shall give Mortgagee at least twenty (20) days prior written notice of any Permitted Lien described in the parenthetical to clause (ii) above which is to be created after the date hereof together with a reasonably detailed description thereof; and provided, further, that nothing contained in this Paragraph shall require Mortgagor to pay any real estate taxes or other Impositions prior to the time when same are required to be paid under this Mortgage. Mortgagor will keep and maintain all of the Premises free from all liens of Persons supplying labor or materials relating to the construction, alteration, modification or repair of the Premises. If any such lien shall be filed against any of the Property,

Mortgagor agrees to discharge the same of record (by payment, bonding or otherwise) within 10 days of notice of the filing thereof. No financing statement, conditional bill of sale or chattel mortgage shall be made or filed against any Building Equipment without the prior consent of Mortgagee and if at any time there should be any (with or without the consent of Mortgagee), then upon the occurrence and during the continuance of an Event of Default, all right, title and interest of Mortgagor in and to all deposits and payments made thereon are hereby assigned to Mortgagee.

33. Change in Taxation In the event of the enactment of or change in (including, without limitation, a change in interpretation of) any applicable law (a) deducting or allowing Mortgagor to deduct from the value of the Property for the purpose of taxation any lien or security interest thereon, (b) imposing, modifying or deeming applicable any reserve or special requirement against deposits in or for the account of, or loans by, or other liabilities of, or other assets held by Mortgagee or any of the Secured Parties, or (c) subjecting Mortgagee or any of the Secured Parties to any tax or changing the basis of taxation of mortgages, deeds of trust, or other liens or debts secured thereby, or the manner of collection of such taxes, in each such case, so as to affect this Mortgage, the Obligations, Mortgagee or any of the Secured Parties, and the result is to increase the taxes imposed upon or the cost to Mortgagee or any of the Secured Parties of maintaining the Obligations, or to reduce the amount of any payments receivable hereunder or under the other Credit Documents, then, and in any such event, Mortgagor shall, on demand, pay to Mortgagee for the account of Mortgagee or any of the Secured Parties, as the case may be, such additional amounts as may be required to compensate for such increased costs or reduced amounts, provided that if any such payment or reimbursement shall be unlawful or would constitute usury under applicable law, then Mortgagee may, at its option, require Mortgagor to make a partial repayment of the Obligations in an amount equal to the then value of the Premises.

34. Assignment of Leases and Rents Mortgagor absolutely and unconditionally assigns to Mortgagee the Rents, issues and profits of the Premises as further security for the payment of the Obligations and Mortgagor grants to Mortgagee during the existence of an Event of Default the right to enter the Premises for the purpose of collecting the same and to let the Premises, or any part thereof, and, except as otherwise provided in the Credit Agreement, to apply said Rents, issues and profits, after payment of all necessary charges and expenses, on account of the Obligations. This assignment and grant shall continue in effect until the payment in full of the Obligations, the cancellation or termination of the Commitments and the cancellation or expiration of all outstanding Letters of Credit. Mortgagee hereby waives the right to enter the Premises for the purpose of collecting said Rents, issues and profits, and Mortgagor shall be entitled to collect, receive and use said Rents, issues and profits, until the occurrence and during the continuance of and Event of Default. During the continuance of any Event of Default, the right of Mortgagor to collect, receive and use said Rents, issues and profits, shall be revoked forthwith. Further, from and after delivery of written notice of such revocation, constructive possession of the Premises shall be vested in Mortgagee, and this assignment shall be activated and perfected. Notwithstanding the foregoing, this assignment shall also be activated and perfected upon Mortgagee's exercising, upon the occurrence and during the continuance of an Event of Default, any of the following remedies pursuant to this Mortgage: (i) taking actual possession of the Premises; (ii) moving or applying for the appointment of a receiver; (iii) filing or commencing an action to foreclose this Mortgage; or (iv) collecting the Rents directly from the tenant(s). Mortgagor shall, from time to time after request by Mortgagee, execute, acknowledge and deliver to Mortgagee, in form reasonably satisfactory to Mortgagee, separate assignments effectuating the foregoing. Neither Mortgagee nor the Secured Parties shall be obligated to perform or discharge any obligation or duty to be performed or discharged by Mortgagor under any Lease or other agreement affecting all or any part of the Premises, and Mortgagor hereby agrees to indemnify Mortgagee and the Secured Parties for and hold them harmless from, any and all liability arising from any such Lease or other agreement or any assignments thereof, and no assignment of any such Lease or other agreement shall place the responsibility for the control, care, management or repair of all or any part of the Premises upon Mortgagee or the Secured Parties, nor make Mortgagee or the other Secured Parties liable for any negligence in the management, operation, upkeep, repair or control of all or any part of the Premises resulting in injury, death or property damage. In addition, after the occurrence and during the continuance of an Event of Default and following the giving of notice to Mortgagor, Mortgagor will pay monthly in advance to Mortgagee, or to any receiver appointed to collect said Rents, issues and profits, the fair and reasonable rental value for the use and occupancy of the Premises or of such part thereof as may be in the possession of Mortgagor, and upon default in any such payment will vacate and surrender the possession thereof to Mortgagee or to such receiver, and in default thereof may be evicted by summary or other proceedings.

35. Security Agreement It is the intention of the parties hereto that this instrument shall constitute a Security Agreement and a Financing Statement within the meaning of the Uniform Commercial Code as enacted in the state in which the Land is located with respect to the personalty and fixtures comprising a part of the Property,

and that a security interest shall attach thereto for the benefit of Mortgagee, as secured party, to further secure the Obligations. Mortgagor hereby authorizes Mortgagee to file financing and continuation statements with respect to such collateral in which Mortgagor has a mortgageable interest, without the signature of Mortgagor whenever lawful, and upon request, Mortgagor shall promptly execute financing and continuation statements in form satisfactory to Mortgagee to further evidence and secure Mortgagee's interest in such collateral, and shall pay all filing fees in connection therewith. In the event of the occurrence and during the continuance of an Event of Default, Mortgagee, pursuant to the applicable provision of the Uniform Commercial Code, shall have the option of proceeding as to both real and personal property in accordance with its rights and remedies in respect of the real property, in which event the default provisions of the Uniform Commercial Code shall not apply. The parties agree that in the event Mortgagee elects to proceed with respect to collateral constituting personalty or fixtures separately from the real property, without demand, notice or advertisement whatsoever except that where an applicable statute requires reasonable notice of sale or the dispositions, the giving of ten (10) days' notice by Mortgagee to Mortgagor, shall be deemed to be reasonable notice thereof and Mortgagor waives any other notice with respect thereto.

36. No Release Neither Mortgagor nor any other Person now or hereafter obligated for the payment or performance of all or any portion of the Obligations shall be released from paying such Obligations and the lien of this Mortgage shall not be affected by reason of (a) the failure of Mortgagee or any of the Secured Parties to comply with any request of Mortgagor, or of any other Person so obligated, to take action to foreclose this Mortgage or otherwise enforce any of the provisions of this Mortgage or of any of the covenants and agreements of Mortgagor under the Credit Documents, (b) the release, regardless of consideration, of the whole or any part of the security held for the Obligations, (c) the release, regardless of consideration, of the obligations of any Person or Persons liable for payment or performance of all or any portion of the Obligations, or (d) any agreement or stipulation extending the time of payment or modifying the terms of any of the Credit Documents, and in the event of such agreement or stipulation, Mortgagor and all such other Persons shall continue to be liable under the Credit Documents, as amended by such agreement or stipulation, unless expressly released and discharged in writing by Mortgagee and the Secured Parties.

37. Notices All notices, consents and other communications provided for herein shall be sent to such Person's address as follows (or to such other address indicated in an unrevoked written notice from such Person given in accordance the terms of this Paragraph):

(a) if to Mortgagor, Douglas Dynamics, L.L.C., 7777 North 73rd Street, Milwaukee, WI 53223, Attention: Chief Executive Officer and President, Telecopy No.: (414) 354-8448, with a copy to Aurora Capital Group, 10877 Wilshire Boulevard, Suite 2100, Los Angeles, CA 90024, Attention: Secretary, Douglas Dynamics Holdings, Inc., Telecopier No.: (310) 824-2791, with a copy to Gibson, Dunn & Crutcher LLP, 333 S. Grand Avenue, Los Angeles, CA 90071, Attention: Jeff R. Hudson, Esq., Telecopy No.: 213-229-6332; and

(b) if to Mortgagee or Collateral Agent, at Credit Suisse, Cayman Islands Branch, Eleven Madison Avenue, New York, NY 10010, Attention: Ian Nalitt, Telecopy No.: (212) 325-8615, with a courtesy copy to Skadden Arps Slate Meagher & Flom LLP, 300 South Grand Avenue, Suite 3400, Los Angeles, CA 90071-

3144, Attention: David S. Kitchen, Esq., Telecopy No.: (213) 621-5280; and

(c) if to any of the Secured Parties, at the address set forth below such Secured Party's name on the signature pages of the Credit Agreement.

Each notice hereunder shall be in writing and may be personally served, telexed or sent by telefacsimile or United States mail or courier service and shall be deemed to have been given when delivered in person or by courier service and signed for against receipt thereof, upon receipt of telefacsimile or telex, or three (3) Business Days after depositing it in the United States mail with postage prepaid and properly addressed; provided, no notice to Mortgagee shall be effective until received by Mortgagee.

38. Severability In case any provision in or obligation hereunder shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

39. Intentionally Deleted

40. Indemnification Against Liabilities Mortgagor will defend, indemnify, pay and hold harmless Mortgagee and the Secured Parties and their respective officers, partners, directors, trustees, employees, agents and Affiliates of Mortgagee and each of the Secured Parties from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind (including, without limitation, reasonable attorneys' fees and expenses) imposed upon or incurred by or asserted against Mortgagee and any of the Secured Parties by reason of (a) ownership of a mortgagee's or participating lender's interest in the Property, (b) any accident or injury to or death of Persons or loss of or damage to or loss of the use of property occurring on or about the Premises or any part thereof or the adjoining sidewalks, curbs, vaults and vault spaces, if any, streets, alleys or ways, unless due to the willful misconduct of Mortgagee or such Secured Party, (c) any use, nonuse or condition of the Premises or any part thereof or the adjoining sidewalks, curbs, vaults and vault spaces, if any, streets, alleys or ways, (d) any failure on the part of Mortgagor to perform or comply with any of the terms of this Mortgage, (e) performance of any labor or services or the furnishing of any materials or other property in respect of the Premises or any part thereof made or suffered to be made by or on behalf of Mortgagor, (f) any negligence or tortious act on the part of Mortgagor or any of its agents, contractors, lessees, licensees or invitees, or (g) any work in connection with any alterations, changes, new construction or demolition of the Premises. All amounts payable to Mortgagee and the Secured Parties under this Paragraph shall be payable promptly on demand and shall be deemed indebtedness and Obligations secured by this Mortgage and any such amounts shall bear interest at the default interest rate specified in Section 2.9 of the Credit Agreement from the date of such demand. In case any action, suit or proceeding is

brought against Mortgagor, Mortgagee and/or any of the Secured Parties by reason of any such occurrence, Mortgagor, upon request of Mortgagee or any of the Secured Parties will, at Mortgagor's expense, resist and defend such action, suit or proceeding or cause the same to be resisted or defended by counsel designated by Mortgagee or such Secured Party and approved by Mortgagor.

41. No Oral Changes This Mortgage and its provisions cannot be changed, waived, discharged or terminated orally but only by an agreement in writing, signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

42. Governing Law THE PROVISIONS OF THIS MORTGAGE REGARDING THE CREATION, PERFECTION AND ENFORCEMENT OF THE LIENS AND SECURITY INTERESTS HEREIN GRANTED SHALL BE GOVERNED BY AND CONSTRUED UNDER THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED. ALL OTHER PROVISIONS OF THIS MORTGAGE AND THE RIGHTS AND OBLIGATIONS OF MORTGAGOR AND MORTGAGEE SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPALS THEREOF.

43. Construction This Mortgage shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument or any portion thereof to be drafted.

44. Headings Paragraph headings herein are included herein for convenience of reference only and shall not constitute a part hereof for any other purpose or be given any substantive effect.

45. After Acquired Property All property of every kind which is hereafter acquired by Mortgagor which, by the terms hereof, is required or intended to be subjected to the lien of this Mortgage shall, immediately upon the acquisition thereof by Mortgagor, and without any further giving of a deed of trust and/or mortgage, conveyance, assignment or transfer, become subject to the lien of this Mortgage.

46. Further Assurances Mortgagor shall execute, acknowledge and deliver to Mortgagee any documents and instruments which Mortgagee may reasonably request from time to time for the better assuring, conveying, assigning, transferring, confirming or perfecting of Mortgagee's security and rights under this Mortgage, in form and substance reasonably satisfactory to Mortgagee.

47. Definitions The following terms shall, for all purposes of this Mortgage, have the respective meanings herein specified unless the context otherwise requires and such meanings shall apply equally to the singular and plural forms of such defined terms unless a definition is provided herein for both the singular and plural form of such defined term:

(a) **"Lease"** shall mean every lease or occupancy agreement for the use or hire of all or any portion of the Premises, which shall be in effect at the date hereof or which shall hereafter be entered into by or on behalf of Mortgagor.

(b) **"Rents"** shall mean all rents, rent equivalents, moneys payable as damages or in lieu of rent or rent equivalents, royalties (including, without limitation, all oil and gas or other mineral royalties and bonuses), income, receivables, receipts, revenues, deposits (including, without limitation, security, utility and other deposits), accounts, cash, issues, profits, charges for services rendered, and other consideration of whatever form or nature received by or paid to or for the account of or benefit of Mortgagor or its agents or employees from any and all sources arising from or attributable to the Land and the Building, including, without limitation, all receivables, customer obligations, installment payment obligations and other obligations now existing or hereafter arising or created out of the sale, lease, sublease, license, concession or other grant of the right of the use and occupancy of property, and proceeds, if any, from business interruption or other loss of income insurance.

48. Successors and Assigns The terms, covenants and provisions of this Mortgage shall apply to and be binding upon Mortgagor and the successors and assigns of Mortgagor and shall inure to the benefit of Mortgagee, the Secured Parties and their respective successors and assigns. All grants, covenants, terms, provisions, and conditions contained herein shall run with the Land.

49. Credit Agreement In the event of any inconsistency or conflict between the terms and provisions of the Credit Agreement and this Mortgage, the terms and provisions of the Credit Agreement shall control.

50. WAIVER OF JURY TRIAL MORTGAGOR AND MORTGAGEE HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS MORTGAGE AND ACKNOWLEDGE THAT THIS WAIVER IS A MATERIAL

INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, THAT EACH HAS RELIED ON THIS WAIVER IN ENTERING INTO THIS MORTGAGE, AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN THEIR FUTURE DEALINGS. MORTGAGOR AND MORTGAGEE REPRESENT AND WARRANT THAT EACH HAS HAD AN OPPORTUNITY OF REVIEWING THIS JURY WAIVER WITH LEGAL COUNSEL AND THAT EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS.

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IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be executed under seal as of the day and year first above written.

Mortgagor:

DOUGLAS DYNAMICS, L.L.C.

By: _____
Name:
Title:

ACKNOWLEDGMENT

STATE OF)
)ss.
COUNTY OF)

Personally came before me this day of May, 2007 the above named , the of Douglas Dynamics, L.L.C. to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.

*

Notary Public, State of
My Commission expires:
, .)

* Names of persons signing in any capacity must be typed or printed below their signature.

Exhibit A

Description of the Land

A parcel of land in the Northwest One-quarter (1/4) of Section Fifteen (15), Township Eight (8) North, Range Twenty-one (21) East, in the City of Milwaukee, Milwaukee County, Wisconsin, more particularly described as follows: Commencing at the Southwest corner of said 1/4 Section; running thence North along the West line of said 1/4 Section, 1328.24 feet to a point in the extended center line of a 20 foot sewer easement; thence North 88°54'49" East along said center line of the 20 foot sewer easement and its extension, 468:61 feet to the point of beginning of the land to be described; thence South 0°01'16" East, 1055.57 feet to a point; thence North 88°57'47" East, 408.99 feet to a point in the present West line of North 73rd Street; thence North 0°02'25" West along the said present West line of North 73rd Street, 1055.90 feet to a point; thence South 88°54'49" West along the center line of a 20 foot sewer easement, 408.60 feet to the point of beginning.

Schedule B

Existing Liens

1. All those exceptions to title set forth on Schedule B to Loan Policy No. 440270M issued by Lawyers Title Insurance Corporation.

2. Those liens and security interests granted in favor of the ABL Collateral Agent disclosed by the Intercreditor Agreement.

THIS INSTRUMENT WAS DRAFTED BY:

Kevin Oliver, Esq.
Skadden, Arps, Slate, Meagher, & Flom LLP
300 South Grand Avenue
Los Angeles, California 90071

Maximum principal indebtedness for Tennessee Recording Tax purposes is $7,000,000.

DEED OF TRUST, ASSIGNMENT OF LEASES, RENTS AND PROFITS AND SECURITY AGREEMENT

DOUGLAS DYNAMICS, L.L.C.

Grantor

to

FREDERIC H. BRANDT, ESQ.,
a resident of Washington County, Tennesee

Trustee

for the benefit of

CREDIT SUISSE, CAYMAN ISLANDS BRANCH
in its capacity as Collateral Agent for the Secured Parties
Eleven Madison Avenue
New York, New York 10010

Beneficiary

DATED: As of May 21, 2007

Premises located in:
Washington County, Johnson City, Tennessee

Record and Return to:
Skadden Arps Slate Meagher & Flom LLP
300 South Grand Avenue
Los Angeles, California 90071
Attn: Eric Lee, Esq.

INDEX

DEED OF TRUST, ASSIGNMENT OF LEASES, RENTS AND PROFITS AND SECURITY AGREEMENT

THIS DEED OF TRUST, ASSIGNMENT OF LEASES, RENTS AND PROFITS AND SECURITY AGREEMENT(this **"Deed of Trust"**) made as of this 21st day of May, 2007 by **DOUGLAS DYNAMICS, L.L.C.** (formerly known as New DD, LLC), a Delaware limited liability company having an office at 7777 North 73rd Street, Milwaukee, Wisconsin 53223 (the **"Grantor"**), to **FREDERIC H. BRANDT,** a resident of Washington County, Tennessee, whose address is c/o Brandt and Beeson, P.C., 206 Princeton Road, Suite 25, Johnson City, TN 37601 (including any successor trustee at the time of acting as such hereunder, the **"Trustee"**), for the benefit of **CREDIT SUISSE, CAYMAN ISLANDS BRANCH** (**"Credit Suisse"**), as collateral agent (in such capacity, and together with its successors and assigns, the **"Beneficiary"**), having an office at Eleven Madison Avenue, New York, New York 10010, for the Secured Parties (as such term and other capitalized terms used but not otherwise defined herein are defined in the Credit Agreement, defined below).

THIS INSTRUMENT COVERS PROPERTY WHICH IS OR MAY BECOME SO AFFIXED TO THE REAL PROPERTY AS TO BECOME FIXTURES AND ALSO CONSTITUTES A UCC FINANCING STATEMENT FILED AS A FIXTURE FILING UNDER § 47-9-502 OF TENNESSEE CODE ANNOTATED.

GRANTOR IS THE RECORD OWNER OF THE PROPERTY DESCRIBED IN EXHIBIT A.

THE BENEFICIARY EXPRESSLY OBJECTS TO THE PRIORITY OF ANY MECHANICS' OR MATERIALMEN'S LIENS IMPOSED SUBSEQUENT TO THE DATE OF THE RECORDATION OF THIS DEED OF TRUST AS SUCH PRIORITY WOULD OTHERWISE BE ALLOWED PURSUANT TO THE TERMS OF T.C.A. § 66-11-108.

NOTICE PURSUANT TO § 47-28-104 OF TENNESSEE CODE ANNOTATED: THIS DEED OF TRUST SECURES FUTURE ADVANCES WHICH ARE "OBLIGATORY ADVANCES" WITHIN THE MEANING OF THE AFORESAID STATUTE. THIS DEED OF TRUST IS FOR "COMMERCIAL PURPOSES WITHIN THE MEANING OF SAID STATUTE.

W I T N E S S E T H:

WHEREAS, Grantor is the owner of the fee interest in those certain parcels of land lying and being situated in Washington County, Tennessee, as more particularly described in Exhibit A attached hereto;

WHEREAS, Grantor, as Borrower, Fisher, LLC, a Delaware limited liability company ("**Fisher**"), Douglas Dynamics Finance Company, a Delaware corporation ("**DD Finance**"), and Douglas Dynamics Holdings, Inc., a Delaware corporation ("**Holdings**"), as Guarantors, the banks and financial institutions listed on the signature pages thereof (together with their respective successors and assigns, each individually referred to herein as a "**Lender**" and collectively as "**Lenders**"), Credit Suisse, Cayman Islands Branch, as sole bookrunner, sole lead arranger, syndication agent, documentation agent, administrative agent for the Lenders ("**Term Administrative Agent**"), and as collateral agent for the Lenders, have entered into that certain Credit and Guaranty Agreement, dated as of May 21, 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the **"Credit Agreement"**), pursuant to which Lenders have agreed to make, and Beneficiary has agreed to administer, certain credit facilities in an aggregate amount not to exceed $85,000,000, which extensions of credit shall be used for the purposes permitted under the Credit Agreement, upon the terms and conditions contained in the Credit Agreement; and

WHEREAS, Grantor has agreed to execute and deliver to Trustee for the benefit of Beneficiary this Deed of Trust in order to secure Grantor's performance of Grantor's obligations under the Credit Agreement and under any of the other Credit Documents;

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and other good and valuable consideration, including Beneficiary's entering into the Credit Agreement, the receipt and legal sufficiency of which are hereby expressly acknowledged by all parties, to secure the full and complete payment and performance of the Obligations, including Grantor's performance of Grantor's obligations pursuant to the Credit Agreement, this Deed of Trust and the other Credit Documents, Grantor and Beneficiary hereby agree as follows:

Grantor does hereby irrevocably GRANT, PLEDGE, MORTGAGE, WARRANT, SELL, TRANSFER, ASSIGN, and CONVEY unto Trustee and Trustee's successors, assigns and substitutes in trust hereunder, with covenants of general warranty and **WITH POWER OF SALE** and right of entry and possession, for the use and benefit of Beneficiary, as collateral agent for the Lenders, the real and personal property, rights, titles, interests and estates constituting the Property (defined below), subject, however, to the Permitted Liens and Existing Liens (defined below) **TO HAVE AND TO HOLD** the Property unto Trustee and Trustee's successors, assigns and substitutes in trust hereunder, subject to the terms and conditions of this Deed of Trust, **WITH POWER OF SALE**, forever, and Grantor does hereby bind itself, its successors and assigns to WARRANT AND FOREVER DEFEND the title to the Property unto Beneficiary against every person whomsoever lawfully claiming or to claim the same or any part thereof other than any person claiming by, through or under Beneficiary; provided, however, that if Grantor (i) shall perform all obligations hereunder and (ii) the Obligations are paid in full, the Commitments are cancelled or terminated and all outstanding Letters of Credit are cancelled or have expired, then the liens, security interests, estates and rights granted by this Deed of Trust shall be terminated by Beneficiary by execution of a discharge of this Deed of Trust in recordable form and delivery of the discharge to Grantor or Grantor's designee.

All of the foregoing being collectively referred to as the **"Property"**:

A. All that certain land located in Washington County, Tennessee and more particularly described in Exhibit A annexed hereto and made a part hereof (collectively, the **"Land"**).

B. All the buildings, structures and improvements, now or at any time hereafter erected on the Land or any part thereof (collectively, the **"Buildings"**).

C. All machinery, apparatus, equipment, personal property and fixtures of every kind and nature whatsoever now or hereafter located in, on or about any one or more of the Buildings or upon the Land, or attached to or used or useable in connection with the operation or maintenance of the Land or any one or more of the Buildings, or any part thereof, and now owned or hereafter acquired (collectively, the **"Building Equipment"**; the Land, the Buildings and the Building Equipment being hereafter sometimes collectively referred to as the **"Premises"**).

D. All right, title and interest of Grantor, whether now owned or hereafter acquired, in and to any opened or proposed avenues, streets, roads, public places, sidewalks, alleys, strips or gores of land, in front of or adjoining the Land or any one or more of the Buildings and all easements, tenements, hereditament, appurtenances, rights and rights of way, public or private, pertaining or belonging to the Land or any one or more of the Buildings.

E. All insurance proceeds and all awards and payments, subject to applicable provisions of this Deed of Trust, including interest thereon, and the right to receive the same, which may be made in respect of all or any part of any of the Premises or any estate or interest therein or appurtenant thereto, as a result of damage to or destruction of all or any part of any of the Premises, the exercise of the right of condemnation or eminent domain, the closing of, or the alteration of the grade of, any street on or adjoining the Land, or any other injury to or decrease in the value of all or any part of any of the Premises.

F. All right, title and interest of Grantor in and to any and all present and future Leases (as defined in Paragraph 49) of all or any part of the Premises, and in and to the rents, issues and profits payable thereunder and cash or securities deposited thereunder as lessees' security deposits.

G. All franchises, permits, licenses and rights therein respecting the use, occupation and operation of the Premises or the activities conducted thereon or therein.

H. All right, title and interest of Grantor in and to any minerals, oil or gas located on, under or appurtenant to the Land.

I. All right, title and interest of Grantor in and to any tax refunds with respect to the Premises.

J. To the extent assignable, all of Grantor's interest in and to all agreements, contracts, certificates, instruments and other documents, now or hereafter entered into,

pertaining to the construction, operation or management of the Premises and all right, title and interest of Grantor therein (collectively, the **"Contracts"**).

K. All of Grantor's interest in and to all easements, rights, licenses, privileges and appurtenances including, without limitation, development and air rights now or hereafter belonging or in any way appertaining to the Land.

L. All of the estate and rights of Grantor now or hereafter acquired in and to land lying in streets, roads, ways and alleys, open or proposed, adjoining or contiguous to the Land.

M. The rents, issues and profits of any of the foregoing.

AND GRANTOR COVENANTS, REPRESENTS AND WARRANTS TO AND FOR THE BENEFIT OF TRUSTEE, BENEFICIARY AND THE SECURED PARTIES AS FOLLOWS:

1. Payment of Obligations and Performance of Covenants and Agreements Grantor shall pay or perform the Obligations when due in accordance with the provisions of the Credit Agreement, this Deed of Trust, and the other Credit Documents and perform the covenants and agreements of Grantor set forth in the Credit Documents.

2. Title to Property Grantor represents and warrants that (a) it owns good and marketable fee simple title to the Premises, (b) it has the good and unrestricted right, full power and lawful authority to make this Deed of Trust in accordance with the terms hereof, (c) Grantor has obtained any and all consents and approvals necessary or required for the making of this Deed of Trust, and the making of this Deed of Trust will not violate any contract or agreement to which Grantor is a party or by which the Property is bound, and (d) the Premises is free of all liens, encumbrances, adverse claims and other defects of title whatsoever except those items listed on Exhibit B annexed hereto and made a part hereof (collectively, the **"Existing Liens"**) and Permitted Liens. Grantor does hereby and shall forever warrant and defend its title to and interest in the Property and the validity and priority of the lien of this Deed of Trust, subject to the Existing Liens and the Permitted Liens, to Beneficiary and the Secured Parties, their respective successors and assigns, against all claims and demands whatsoever of any Person or Persons. As of the date hereof, there are no defenses or offsets to this Deed of Trust or to the Obligations.

3. Intercreditor Agreement Notwithstanding anything herein to the contrary, and regardless of the priority of recordation of this Deed of Trust, the lien and security interests granted to the Beneficiary pursuant to this Deed of Trust and the exercise of any right or remedy by such Beneficiary hereunder are subject to the provisions of that certain Intercreditor Agreement, dated as of May 21, 2007 (the "**Intercreditor Agreement**"), by and among Grantor, Fisher, DD Finance, Holdings, Beneficiary, Term Administrative Agent, Credit Suisse, in its capacity as administrative agent under the ABL Loan Documents (as defined therein), and JPMorgan Chase

Bank,

N.A., in its capacity as collateral agent under the ABL Loan Documents (together with its successors and assigns from time to time in such capacity, the "**ABL Collateral Agent**"). In the event of any conflict between the terms of the Intercreditor Agreement and this Deed of Trust, the terms of the Intercreditor Agreement shall govern.

4. Future Advances Without limiting the generality of any other provision hereof, or the terms and provisions of the Credit Agreement, the Obligations shall include, without limitation: (a) all existing indebtedness of Grantor to Beneficiary and/or any of the Secured Parties evidenced by any of the Credit Documents; (b) all future advances that may subsequently be made by Beneficiary and/or the Lenders as provided by any of the Credit Documents; and (c) all other indebtedness, if any, of Grantor to Beneficiary and/or any of the Secured Parties now due or to become due or hereafter contracted pursuant to any of the Credit Documents; provided that the maximum principal amount of all existing indebtedness, future advances, readvances of sums repaid and all other indebtedness secured hereby at any one time shall not exceed the total sum of $7,000,000 (exclusive of interest thereon, attorneys' fees and costs, taxes, insurance premiums and all other obligations hereunder).

5. Insurance

(a) Grantor shall maintain in full force and effect with respect to the Premises the insurance as required by Section 5.5 of the Credit Agreement.

(b) In the event of a foreclosure of this Deed of Trust or other action or proceeding taken by Beneficiary pursuant to this Deed of Trust, the purchaser of the Premises shall succeed to all of the rights of Grantor, including any right to unearned premiums, in and to all policies of insurance which Grantor is required to maintain under Paragraph 5(a) and to all proceeds of such insurance.

6. Impositions

(a) Grantor shall pay, not later than the final delinquency date thereof, all real estate taxes, personal property taxes, assessments, water rates and sewer rents, license fees, all charges which may be imposed for the use of vaults, chutes, areas and other space beyond the lot line and abutting the public sidewalks in front of or adjoining the Land, and any other amounts which could be or become a lien upon or against the Property or any part thereof (collectively, the **"Impositions"**); provided, no such Imposition need be paid if it is being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, so long as adequate reserve or other appropriate provision, as shall be required in conformity with GAAP shall have been made therefor. Notwithstanding the foregoing, Grantor shall promptly, and in any event on demand, pay such contested Imposition if at any time all or any part of the Property shall be in danger of being foreclosed, sold, forfeited, or otherwise lost or if such contest shall be discontinued. During the continuance of any Event of Default, upon demand by Beneficiary, Grantor will pay the whole of any assessment (an **"Assessment"**) for local improvements which may be payable in installments, notwithstanding that such installments may not be due and payable at the time of such demand.

(b) Grantor shall, upon request of Beneficiary, deliver to Beneficiary, within twenty (20) days after the final delinquency date thereof of any Imposition or Assessment, receipts evidencing such payment or other proof of payment satisfactory to Beneficiary.

7. Maintenance and Alterations Grantor will maintain or cause to be maintained in good repair, working order and condition, ordinary wear and tear excepted, the Premises and from time to time will make or cause to made all appropriate repairs, renewals and replacements thereof.

8. Leasing Grantor represents that there are no Leases now in effect. Grantor shall not enter into any Lease of all or any part of any of the Premises without in each instance obtaining Beneficiary's prior written consent thereto, which consent shall not be unreasonably withheld, conditioned or delayed. Grantor shall deliver to Beneficiary a duplicate original of each Lease promptly after the execution thereof. At the option of Beneficiary, each Lease, and all renewals, replacements, extensions, and modifications thereof, and all rights of the tenant thereunder, shall be subject and subordinate to this Deed of Trust, and to each and every advance made or thereafter made hereunder or under the other Credit Documents and to all renewals, additions, amendments, supplements, modifications, consolidations, spreaders, replacements, and extensions of this Deed of Trust and shall contain provisions obligating the tenants thereunder to attorn to Beneficiary or any purchaser therefrom if Beneficiary or such purchaser succeeds to the interest of Grantor under such Lease. Grantor shall fully and promptly perform all of the obligations to be performed by the lessor under any and all Leases. Grantor shall enforce the performance and observance of each and every obligation to be performed or observed by the lessees under such Leases. Grantor shall give prompt notice to Beneficiary of (a) any notice received by Grantor of any default by the lessor under any Lease, (b) the commencement of any action or proceeding by any lessee the purpose of which shall be the cancellation of any Lease or a diminution or abatement of the rent payable thereunder, (c) any notice of default given by Grantor to the lessee under any Lease, or (d) the interposition by any lessee of any defense or counterclaim in any action or proceeding brought by Grantor against such lessee; and Grantor will cause a copy of any process, pleading or notice received or served by Grantor in reference to any such action, defense or claim to be promptly delivered to Beneficiary. Grantor shall hold in trust all security deposits and advance rent given on account of any Lease, and deposit such security in a bank or trust company and shall not mingle such funds with other funds. Grantor shall repay or apply such funds only in accordance with the provisions of the applicable Leases.

9. Recording, Filing and Other Fees Grantor shall pay all recording and filing fees, all recording taxes, and all other costs and expenses in connection with the preparation, execution and recordation and other manner of perfection of this Deed of Trust and any other Credit Documents, and shall reimburse Beneficiary and each of the Secured Parties on demand for all costs and expenses of any kind incurred by Beneficiary or any of the Secured Parties in connection therewith (including, without limitation, reasonable attorneys' fees and disbursements). Grantor will, at any time on request of Beneficiary, execute or cause to be executed financing

statements, continuation statements, or the like, in respect of any Building Equipment. Grantor shall pay all filing fees, including fees for filing continuation statements, in connection with such financing statements.

10. Taxes Imposed on Beneficiary and the Secured Parties Grantor shall pay all taxes (except income, inheritance and franchise taxes, taxes on the receipt of debt service payments, or taxes in lieu of any of the foregoing) imposed on Beneficiary or any of the Secured Parties by reason of its ownership of this Deed of Trust or any of the other Credit Documents.

11. Compliance with Laws, etc. Grantor shall comply with the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority (including Environmental Laws), noncompliance with which could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

12. Inspection Beneficiary and its authorized representatives shall have the right, at Beneficiary's option, at reasonable times during normal business hours and upon reasonable prior written notice, and as often as may be reasonably requested, to enter the Premises for the purpose of inspecting the same and any other Collateral.

13. Certificate of Grantor Grantor, upon request of Beneficiary or any of the Secured Parties, shall certify to Beneficiary or to such Secured Party or

to any proposed assignee of or participant in this Deed of Trust, by an instrument in form reasonably satisfactory to Beneficiary or such Secured Party, duly acknowledged, the amount of the Obligations then owing, whether any offsets or defenses exist against payment or performance of all or any portion of the Obligations and anything else that Beneficiary or such Secured Party might reasonably request, within ten (10) days if the request is made personally, or within fifteen (15) days if the request is made by mail. Beneficiary, Secured Parties and any actual or proposed assignee of or participant in this Deed of Trust shall have the right to rely on such certification.

14. Condemnation Grantor shall give notice to Beneficiary upon Grantor receiving written notice of the commencement of any action or proceeding to take all or any part of the Premises by exercise of the right of condemnation or eminent domain or of any action or proceeding to close or to alter the grade of any street on or adjoining the Land. Beneficiary may participate in any such action or proceeding in the name of Beneficiary or, whenever necessary, in the name of Grantor, and Grantor shall deliver to Beneficiary such instruments as Beneficiary shall request to permit such participation. Grantor shall not settle any such action or proceeding or agree to accept any award or payment without the prior written consent of Beneficiary (which consent shall not be unreasonably withheld, conditioned or delayed), and such award or payment and any interest thereon (hereinafter collectively called the **"Award"**) shall be applied in accordance withSection 2.14(b) and Section 2.15 of the Credit Agreement.

(a) The application of any Award toward payment of the Obligations shall not be deemed a waiver by Beneficiary or any of the Secured Parties of its right to receive payment of the balance of the Obligations in accordance with the provisions of

the Credit Documents. Beneficiary shall have the right, but shall be under no obligation, to question the amount of the Award, and Beneficiary may accept the same without prejudice to the rights that Beneficiary may have to question such amount. In any such condemnation or eminent domain action or proceeding Beneficiary may be represented by attorneys selected by Beneficiary, and all sums paid by Beneficiary in connection with such action or proceeding (including, without limitation, reasonable attorneys' fees to the extent permitted by law) shall, on demand, be immediately due from Grantor to Beneficiary and the same shall be secured by this Deed of Trust.

(b) Notwithstanding any taking by condemnation or eminent domain, closing of, or alteration of the grade of, any street or other injury to or decrease in value of the Premises by any public or quasi-public authority or corporation, the unpaid principal portion of the Advances shall continue to bear interest at the rate payable pursuant to the applicable Credit Documents until the Award shall have been actually received by Beneficiary, and any reduction in the Obligations resulting from the application by Beneficiary of the Award shall be deemed to take effect only on the date of such receipt.

15. Restoration If the Buildings or the Building Equipment shall be damaged or destroyed, in whole or in part, by fire or other casualty, or by any taking in condemnation proceedings or the exercise of any right of eminent domain, Grantor shall promptly restore, replace or rebuild the same to as nearly as possible the value, quality and condition they were in immediately prior to such fire or other casualty or taking, with such alterations or changes as may be approved in writing by Beneficiary which approval shall not be unreasonably withheld or delayed, or apply the amount of any Award or insurance proceeds received with respect thereto, in each case in accordance with Section 2.14(b) and Section 2.15 of the Credit Agreement. Grantor shall give prompt notice to Beneficiary of any damage or destruction to the Buildings or Building Equipment by fire or other casualty, as well as the initiation of any condemnation or eminent domain proceeding affecting the same.

16. Default

(a) Any Event of Default under the Credit Agreement shall constitute an Event of Default hereunder and Beneficiary shall have all of the rights of the Administrative Agent and Collateral Agent under the Credit Agreement and all of the remedies hereunder.

(b) All notice and cure periods provided in the Credit Agreement shall run concurrently with any notice and cure periods provided under applicable law.

17. Beneficiary's Right to Perform Grantor's Covenants If there shall be an Event of Default, Beneficiary may, at its option, cure such Event of Default, and Beneficiary and its representatives shall have the right to enter the Premises to do so, and the amounts advanced by, and the other costs and expenses of, Beneficiary in curing such Event of Default, with interest from the time of the advances or payments at the Base

Rate plus the Applicable Margin, shall, on demand, be immediately due from Grantor to Beneficiary and shall be secured by this Deed of Trust.

18. Contemporaneous Mortgages THIS DEED OF TRUST IS MADE CONTEMPORANEOUSLY WITH TWO (2) OTHER MORTGAGES OR DEEDS OF TRUST OF EVEN DATE HEREWITH (as any of the same may be amended, supplemented, restated, severed, consolidated, spread, partially released, increased or otherwise modified from time to time, the **"Contemporaneous Mortgages"**) GIVEN TO BENEFICIARY COVERING PROPERTY LOCATED IN THE STATES OF MAINE AND WISCONSIN. The Contemporaneous Mortgages secure the Obligations. Upon the occurrence of an Event of Default, Beneficiary may proceed under this Deed of Trust and/or the Contemporaneous Mortgages against any of such property and/or the Property in one or more parcels and in such manner and order as Beneficiary shall elect. Grantor hereby irrevocably waives and releases, to the extent permitted by law, whether now or hereafter in force, any right to have the property and/or the Property covered by the Contemporaneous Mortgages marshaled upon any foreclosure of this Deed of Trust or the Contemporaneous Mortgages.

19. Appointment of Attorney-in-Fact Grantor hereby constitutes and appoints Beneficiary the true and lawful attorney-in-fact, coupled with an interest, of Grantor and Grantor hereby confers upon Beneficiary the right, in the name, place and stead of Grantor, to, demand, sue for, attach, levy, recover and receive after the occurrence and during the continuance of an Event of Default any of the Rents (as defined in Paragraph 49) and any premium or penalty payable upon the exercise by any third Person under any Lease of a privilege of cancellation originally provided in such Lease and to give proper receipts, releases and acquittances therefor and, after deducting actual out of pocket expenses of collection, to apply the net proceeds as provided in the Credit Agreement or otherwise reasonably determined by Beneficiary after consultation with Grantor; and Grantor does hereby authorize and direct any such third party to deliver such payment to Beneficiary in accordance with this Deed of Trust, and Grantor hereby ratifies and confirms all that its said attorney-in-fact, the Beneficiary, shall do or cause to be done by virtue of the powers granted hereby. The foregoing appointment is irrevocable and continuing, and such rights, powers and privileges shall be exclusive in Beneficiary, and its successors and assigns, so long as any part of the Obligations other than any contingent indemnity and expense reimbursement obligations for which a claim has not been made remain unpaid or unperformed and undischarged.

Upon the occurrence and during the continuance of an Event of Default, Grantorhereby constitutes and appoints Beneficiary the true and lawful attorney-in-fact, coupled with an interest, of Grantor and Grantor hereby confers upon Beneficiary the right, in the name, place and stead of Grantor, to subject and subordinate at any time and from time to time any Lease to the lien, assignment and security interest of this Deed of Trust, or to any other mortgage, deed of trust, assignment or security agreement, or to any ground lease or surface lease, with respect to all or a portion of the Property, or to request or require such subordination, where such reservation, option or authority was reserved to Grantor under any such Lease, or in any case where Grantor otherwise would have the right, power or privilege so to do. The foregoing appointment is irrevocable and

continuing, and such rights, powers and privileges shall be exclusive in Beneficiary, and its successors and assigns, so long as any part of the Obligations other than any contingent indemnity and expense reimbursement obligations for which a claim has not been made remain unpaid or unperformed and undischarged.

20. Power of Sale Subject to the terms of the Credit Agreement, if an Event of Default shall occur and be continuing, Beneficiary shall have the right and option to proceed with foreclosure by directing Trustee, or Trustee's successors or substitutes in trust, to proceed with foreclosure and to sell, to the extent and in the manner permitted by applicable law, all or any portion of the Property at one or more sales, as an entirety or in parcels, at the door of the courthouse in Washington County, Tennessee, at which foreclosure sales are customarily held, at public auction, to the highest bidder for cash, free from equity of redemption, and any statutory or common law right of redemption, homestead, dower, marital share, and all other exemptions all of which are expressly waived by Grantor, after giving notice of the time, place and terms of such sale and of the Property to be sold, by advertising the sale of the property for twenty-one (21) days by three (3) weekly notices (the first of which must be at least twenty (20) days previous to such sale) in some newspaper published in the county and state where the Property is situated, which notice may be given before or after entry by the Trustee. The Trustee shall execute a conveyance to the purchaser in fee simple and deliver possession to the purchaser, which Grantor warrants shall be given without obstruction, hindrance or delay. Where the Property is situated in more than one county, notice as above provided shall be posted and filed in all such counties (if such notices are required by applicable law), and all such Property may be sold in any such county and the notice of such sale shall designate the county where such Property is to be sold. Nothing contained in this Paragraph 20 shall be construed so as to limit in any way Beneficiary's rights to sell the Property, or any portion thereof, by private sale if, and to the extent that, such private sale is permitted under the laws of the applicable jurisdiction or by public or private sale after entry of a judgment by any court of competent jurisdiction so ordering. Grantor hereby irrevocably appoints Beneficiary to be, upon the occurrence and during the continuance of an Event of Default, the attorney-in-fact of Grantor (coupled with an interest) and in the name and on behalf of Grantor to execute and deliver any deeds, transfers, conveyances, assignments, assurances and notices which Grantor ought to execute and deliver, and to do and perform any other acts or things which Grantor ought to do and perform under the covenants herein contained and, generally, to use the name of Grantor in the exercise of any of the powers hereby conferred on Beneficiary. At any such sale: (a) whether made under the power herein contained or any other legal enactment, or by virtue of any judicial proceedings or any other legal right, remedy or recourse, it shall not be necessary for Beneficiary to have physically present, or to have constructive possession of, the Property (Grantor hereby covenanting and agreeing to deliver to Beneficiary any portion of the Property not actually or constructively possessed by Beneficiary immediately upon demand by Beneficiary) and the title to and right of possession of any such property shall pass to the purchaser thereof as completely as if the same had been actually present and delivered to purchaser at such sale; (b) each instrument of conveyance executed by Beneficiary shall contain a general warranty of title, binding upon Grantor and its successors and assigns; (c) each and every recital contained in any instrument of conveyance made by Beneficiary shall conclusively

establish the truth and accuracy of the matters recited therein, including, without limitation, nonpayment and/or nonperformance of the Obligations and advertisement and conduct of such sale in the manner provided herein and otherwise required by applicable law; (d) any and all prerequisites to the validity thereof shall be conclusively presumed to have been performed; (e) the receipt of Beneficiary, or of such other party or officer making the sale, shall be a sufficient discharge to the purchaser for its purchase money and neither such purchaser nor its assigns or personal representatives shall thereafter be obligated to see to the application of such purchase money, or be in any way answerable for any loss, misapplication or non-application thereof; (f) to the fullest extent permitted by applicable law, Grantor shall be completely and irrevocably divested of all of its right, title, interest, claim and demand whatsoever, either at law or in equity (including any statutory or common law right of redemption, which is hereby waived to the fullest extent permitted by applicable law), in and to the property sold in any such event, and such sale shall be a perpetual bar, both at law and in equity, against Grantor and any and all other persons claiming by, through or under Grantor; and (g) to the extent and under such circumstances as are permitted by applicable law, Beneficiary may be a purchaser at any such sale, and shall have the right, after paying or accounting for all costs of said sale or sales, to credit the amount of the bid upon the amount of the Obligations in lieu of cash payment. Each remedy provided in this Deed of Trust is distinct from and cumulative with all other rights and remedies provided hereunder or afforded by applicable law or equity, and may be exercised concurrently, independently or successively, in any order whatsoever.

21. Application of Proceeds of Foreclosure and Other Remedies All amounts received by Beneficiary pursuant to the exercise of remedies hereunder shall be applied first to expenses due Beneficiary or Trustee including, but not limited to, expenses of foreclosure and all expenses incurred in leasing the Property, retaining a managing agent therefor, or fulfilling Grantor's obligations under any Lease, including attorneys fees; second, to interest included in the Indebtedness; third, to principal included in the Indebtedness, in such order as Beneficiary may elect; and the surplus, if any, shall be paid to the party or parties entitled thereto.

22. Waiver of Redemption Rights Any sale of any or all of the Property pursuant to the power of sale or judicial sale provided for herein or in realization of the security interest granted herein shall be made free from the equity of redemption, statutory right of redemption, homestead, dower, curtesy, exemption rights, and all other rights and interests of Grantor, all of which are hereby expressly waived.

23. Judicial Foreclosure After the occurrence and during the continuance of an Event of Default, Beneficiary may institute an action of foreclosure, or take such other action as the law may allow, at law or in equity, for the enforcement hereof and realization on the Property or any other security which is herein or elsewhere provided for, and proceed thereon to final judgment and execution thereon for the entire principal then outstanding under the Credit Documents, with interest thereon at the rate stipulated in the Credit Documents to the date of default and thereafter at the default interest rate specified in Section 2.9 of the Credit Agreement together with all other sums secured by this Deed of Trust, all costs of suit, including, without limitation, the expenses

which are described in Paragraphs 27 and 31, and interest at the default interest rate specified inSection 2.9 of the Credit Agreement on any judgment obtained by Beneficiary from and after the date of any judicial sale of any of the Property until actual payment. Upon any sale or sales made hereunder, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Beneficiary and/or any of the Secured Parties may bid for and acquire any of the Property or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting against the Obligations the net sales price after deducting therefrom the expenses of the sale and the costs of the action and any other sums which Beneficiary is authorized to deduct under this Deed of Trust. Except as otherwise provided in the Credit Agreement, the proceeds of such sale shall be applied first to the payment of the costs and charges of such sale, including, without limitation, Beneficiary's attorneys' fees, (to the extent permitted by law), and second to the payment of the Obligations, the surplus money, if any, to be paid to the Person(s) legally entitled thereto (including Grantor, to the extent so entitled, if at all). Upon the request of Beneficiary and to the extent not prohibited by applicable law, Grantor shall execute and file with the clerk of the court a legally sufficient waiver of any statutory waiting period with respect to the execution of a judgment obtained by Beneficiary in connection with any foreclosure proceedings. The obligation of Grantor to so execute and file such waiver shall survive the termination of this Deed of Trust. Following a foreclosure sale, the sheriff shall deliver to the purchaser the sheriff's deed (and bill of sale as to any personalty) conveying the property so sold without any covenant or warranty, express or implied.

24. Sale in Parcels In the event of a foreclosure of this Deed of Trust or upon any sale under this Deed of Trust pursuant to judicial proceedings or otherwise, the Property may be sold in one parcel and as an entirety or in such parcels, manner or order as Beneficiary in its sole discretion may select.

25. Notice Upon Acceleration Whenever Beneficiary in this Deed of Trust is given the option to accelerate the maturity of all or part of the Obligations upon the occurrence of an Event of Default, Beneficiary may, to the extent permitted by law, do so without prior notice or demand to or upon Grantor except as otherwise specifically provided herein.

26. Possession of Premises To the extent permitted by law, after the occurrence and during the continuance of an Event of Default, Beneficiary and its agents and any receiver appointed by a court are authorized to (a) take possession of the Premises, with or without legal action, and by force if necessary; (b) lease the

Premises or make modifications to or cancel Leases; (c) maintain, repair, alter, and restore the Premises; (d) with or without taking possession, collect all Rents and profits payable under all Leases directly from the lessees thereunder upon notice to each such lessee that an Event of Default exists under this Deed of Trust accompanied by a demand on such lessee for the payment to Beneficiary of all Rents due and to become due under its Lease, and Grantor FOR THE BENEFIT OF BENEFICIARY AND EACH SUCH LESSEE hereby covenants and agrees that the lessee shall be under no duty to question the accuracy of Beneficiary's statement of default and shall unequivocally be authorized to

pay said Rents to Beneficiary without regard to the truth of Beneficiary's statement of an Event of Default and notwithstanding notices from Grantor disputing the existence of an Event of Default such that the payment of rent by the lessee to Beneficiary pursuant to such a demand shall constitute performance in full of the lessee's obligation under the Lease for the payment of Rents by the lessee to Grantor; and (e) after deducting all costs of collection and administration expense, apply the net Rents and profits to the payment of Impositions, insurance premiums and all other carrying charges (including, without limitation, agents' compensation and fees and reasonable costs of counsel to the extent permitted by law, and receivers) and to the maintenance, repair or restoration of the Premises, or, except as otherwise provided in the Credit Agreement, on account and in reduction of the Obligations in such order and amounts as Beneficiary in Beneficiary's sole discretion may elect. Beneficiary shall be liable to account only for Rents and profits actually received by Beneficiary.

27. Expenses of Beneficiary and/or the Secured Parties All sums (including reasonable attorneys' fees and disbursements, to the extent permitted by law) paid by Beneficiary and/or any of the Secured Parties in connection with any litigation to prosecute or defend the rights and obligations created by this Deed of Trust, with interest thereon at the default interest rate specified in Section 2.9 of the Credit Agreement from the time of payment by Beneficiary and/or any of the Secured Parties shall, on demand, be immediately due from Grantor to Beneficiary and/or any such Secured Party and shall be added to and included in the Obligations and shall be secured by this Deed of Trust.

28. Grantor's Waivers

(a) Grantor, for itself and its successors and assigns, hereby irrevocably waives and releases, to the extent permitted by law, whether now or hereafter in force, (i) the benefit of any and all valuation and appraisement laws, (ii) any right of redemption whether statutory or otherwise, in respect of the Property, (iii) any applicable homestead or dower laws, (iv) all exemption laws whatsoever and all moratoriums, extensions or stay laws or rules, or orders of court in the nature of any one or more of them, (v) any right to have any of the Property marshaled upon foreclosure of this Deed of Trust, (vi) the right to interpose any set-off, recoupment, counterclaim or cross-claim in any litigation in any court with respect to, in connection with, or arising out of this Deed of Trust or any of the other Credit Documents unless such set-off, recoupment, counterclaim or cross-claim could not, by reason of the applicable Federal or State procedural laws, be interposed, pleaded or alleged in any other action, and (vii) trial by jury in connection with any litigation arising out of this Deed of Trust or any of the other Credit Documents and any right it may have to claim or recover in any such litigation any special, exemplary, punitive or consequential damages or any damages other than, or in addition to, actual damages.

(b) Beneficiary, for itself and its successors and assigns, hereby irrevocably waives and releases, to the extent permitted by law, whether now or hereafter in force, trial by jury in connection with any litigation arising out of this Deed of Trust or any of the other Credit Documents.

29. Partial Foreclosure Beneficiary may from time to time, if permitted by law, take action to recover any sums, whether interest, principal or any other sums, required to be paid under this Deed of Trust or any other Credit Document as the same become due, without prejudice to the right of Beneficiary thereafter to bring an action of foreclosure, or any other action, for an Event of Default by Grantor existing when such earlier action was commenced. Beneficiary may also foreclose this Deed of Trust for any sums due under this Deed of Trust or any other Credit Document and the lien of this Deed of Trust shall continue to secure the balance of the Obligations due.

30. No Waiver; Rights Cumulative No failure or delay on the part of Beneficiary or any of the Secured Parties in the exercise of any power, right or privilege hereunder or under any other Credit Document shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other power, right or privilege. The rights, powers and remedies given to Beneficiary and each of the Secured Parties hereby are cumulative and shall be in addition to and independent of all rights, powers and remedies existing by virtue of any statute or rule of law or in any of the other Credit Documents. Any forbearance or failure to exercise, and any delay in exercising, any right, power or remedy hereunder shall not impair any such right, power or remedy or be construed to be a waiver thereof, nor shall it preclude the further exercise of any such right, power or remedy.

31. Attorneys' Fees If this Deed of Trust shall be foreclosed, or if any of the Credit Documents is placed in the hands of an attorney for collection or is collected through any court, including any bankruptcy court, there shall be included in the computation of the sums secured hereby, to the extent permitted by law, the amount of a reasonable fee for the services of the attorney retained by Beneficiary in the foreclosure action or proceeding, and all disbursements, costs, allowances and additional allowances provided by law.

32. Interest After Maturity The Obligations secured by this Deed of Trust shall bear interest from and after maturity, whether or not resulting from acceleration, at the default interest rate specified in Section 2.9 of the Credit Agreement, but this shall not constitute an extension of time for payment of the Obligations.

33. No Credit for Taxes Grantor shall not claim or demand or be entitled to any credit or credits on account of any of the sums secured hereby by reason of the Impositions assessed against all or any part of the Property or for any payments made on account thereof. No deductions shall be made or claimed from the taxable value of all or any part of the Premises by reason of this Deed of Trust.

34. Liens This Deed of Trust is and shall be maintained as a valid first lien on the Property subject only to any encumbrances created pursuant to the Credit Documents and the Existing Liens and the Permitted Liens, if any. Notwithstanding any provision in the Credit Documents to the contrary, Grantor shall not, directly or indirectly, create or suffer or permit to be created, or to stand, against the Property or any portion thereof, or against the Rents, issues and profits therefrom, any lien, charge, mortgage,

deed of trust, adverse claim or other encumbrance (herein collectively referred to as a **"lien"**), whether senior or junior in lien to this Deed of Trust, other than the lien of (i) this Deed of Trust and (ii) the Permitted Liens (including easements, rights-of-way, restrictions, encroachments, minor defects or irregularities in title and other similar charges, in each case which do not and will not interfere in any material respect with the use or value thereof; provided, however, that Grantor shall give Beneficiary at least twenty (20) days prior written notice of any Permitted Lien described in the parenthetical to clause (ii) above which is to be created after the date hereof together with a reasonably detailed description thereof; and provided, further, that nothing contained in this Paragraph shall require Grantor to pay any real estate taxes or other Impositions prior to the time when same are required to be paid under this Deed of Trust. Grantor will keep and maintain all of the Premises free from all liens of Persons supplying labor

or materials relating to the construction, alteration, modification or repair of the Premises. If any such lien shall be filed against any of the Property, Grantor agrees to discharge the same of record (by payment, bonding or otherwise) within 10 days of notice of the filing thereof. No financing statement, conditional bill of sale or chattel mortgage shall be made or filed against any Building Equipment without the prior consent of Beneficiary and if at any time there should be any (with or without the consent of Beneficiary), then upon the occurrence and during the continuance of an Event of Default, all right, title and interest of Grantor in and to all deposits and payments made thereon are hereby assigned to Beneficiary.

35. Change in Taxation In the event of the enactment of or change in (including, without limitation, a change in interpretation of) any applicable law (a) deducting or allowing Grantor to deduct from the value of the Property for the purpose of taxation any lien or security interest thereon, (b) imposing, modifying or deeming applicable any reserve or special requirement against deposits in or for the account of, or loans by, or other liabilities of, or other assets held by Beneficiary or any of the Secured Parties, or (c) subjecting Beneficiary or any of the Secured Parties to any tax or changing the basis of taxation of mortgages, deeds of trust, or other liens or debts secured thereby, or the manner of collection of such taxes, in each such case, so as to affect this Deed of Trust, the Obligations, Beneficiary or any of the Secured Parties, and the result is to increase the taxes imposed upon or the cost to Beneficiary or any of the Secured Parties of maintaining the Obligations, or to reduce the amount of any payments receivable hereunder or under the other Credit Documents, then, and in any such event, Grantor shall, on demand, pay to Beneficiary for the account of Beneficiary or any of the Secured Parties, as the case may be, such additional amounts as may be required to compensate for such increased costs or reduced amounts, provided that if any such payment or reimbursement shall be unlawful or would constitute usury under applicable law, then Beneficiary may, at its option, require Grantor to make a partial repayment of the Obligations in an amount equal to the then value of the Premises.

36. Assignment of Leases and Rents Grantor absolutely and unconditionally assigns to Beneficiary the Rents, issues and profits of the Premises as further security for the payment of the Obligations and Grantor grants to Beneficiary during the existence of an Event of Default the right to enter the Premises for the purpose of collecting the same and to let the Premises, or any part thereof, and, except as

otherwise provided in the Credit Agreement, to apply said Rents, issues and profits, after payment of all necessary charges and expenses, on account of the Obligations. This assignment and grant shall continue in effect until the payment in full of the Obligations, the cancellation or termination of the Commitments and the cancellation or expiration of all outstanding Letters of Credit. Beneficiary hereby waives the right to enter the Premises for the purpose of collecting said Rents, issues and profits, and Grantor shall be entitled to collect, receive and use said Rents, issues and profits, until the occurrence and during the continuance of and Event of Default. During the continuance of any Event of Default, the right of Grantor to collect, receive and use said Rents, issues and profits, shall be revoked forthwith. Further, from and after delivery of written notice of such revocation, constructive possession of the Premises shall be vested in Beneficiary, and this assignment shall be activated and perfected. Notwithstanding the foregoing, this assignment shall also be activated and perfected upon Beneficiary's exercising, upon the occurrence and during the continuance of an Event of Default, any of the following remedies pursuant to this Deed of Trust: (i) taking actual possession of the Premises; (ii) moving or applying for the appointment of a receiver; (iii) filing or commencing an action to foreclose this Deed of Trust; or (iv) collecting the Rents directly from the tenant(s). Grantor shall, from time to time after request by Beneficiary, execute, acknowledge and deliver to Beneficiary, in form reasonably satisfactory to Beneficiary, separate assignments effectuating the foregoing. Neither Beneficiary nor the Secured Parties shall be obligated to perform or discharge any obligation or duty to be performed or discharged by Grantor under any Lease or other agreement affecting all or any part of the Premises, and Grantor hereby agrees to indemnify Beneficiary and the Secured Parties for and hold them harmless from, any and all liability arising from any such Lease or other agreement or any assignments thereof, and no assignment of any such Lease or other agreement shall place the responsibility for the control, care, management or repair of all or any part of the Premises upon Beneficiary or the Secured Parties, nor make Beneficiary or the other Secured Parties liable for any negligence in the management, operation, upkeep, repair or control of all or any part of the Premises resulting in injury, death or property damage. In addition, after the occurrence and during the continuance of an Event of Default and following the giving of notice to Grantor, Grantor will pay monthly in advance to Beneficiary, or to any receiver appointed to collect said Rents, issues and profits, the fair and reasonable rental value for the use and occupancy of the Premises or of such part thereof as may be in the possession of Grantor, and upon default in any such payment will vacate and surrender the possession thereof to Beneficiary or to such receiver, and in default thereof may be evicted by summary or other proceedings.

37. Security Agreement It is the intention of the parties hereto that this instrument shall constitute a Security Agreement and a Financing Statement within the meaning of the Uniform Commercial Code as enacted in the state in which the Land is located with respect to the personalty and fixtures comprising a part of the Property, and that a security interest shall attach thereto for the benefit of Beneficiary, as secured party, to further secure the Obligations. Grantor hereby authorizes Beneficiary to file financing and continuation statements with respect to such collateral in which Grantor has a mortgageable interest, without the signature of Grantor whenever lawful, and upon request, Grantor shall promptly execute financing and continuation statements in form satisfactory to Beneficiary to further evidence and secure Beneficiary's interest in such

collateral, and shall pay all filing fees in connection therewith. In the event of the occurrence and during the continuance of an Event of Default, Beneficiary, pursuant to the applicable provision of the Uniform Commercial Code, shall have the option of proceeding as to both real and personal property in accordance with its rights and remedies in respect of the real property, in which event the default provisions of the Uniform Commercial Code shall not apply. The parties agree that in the event Beneficiary elects to proceed with respect to collateral constituting personalty or fixtures separately from the real property, without demand, notice or advertisement whatsoever except that where an applicable statute requires reasonable notice of sale or the dispositions, the giving of ten (10) days' notice by Beneficiary to Grantor, shall be deemed to be reasonable notice thereof and Grantor waives any other notice with respect thereto.

38. No Release Neither Grantor nor any other Person now or hereafter obligated for the payment or performance of all or any portion of the Obligations shall be released from paying such Obligations and the lien of this Deed of Trust shall not be affected by reason of (a) the failure of Beneficiary or any of the Secured Parties to comply with any request of Grantor, or of any other Person so obligated, to take action to foreclose this Deed of Trust or otherwise enforce any of the provisions of this Deed of Trust or of any of the covenants and agreements of Grantor under the Credit Documents, (b) the release, regardless of consideration, of the whole or any part of the security held for the Obligations, (c) the release, regardless of consideration, of the obligations of any Person or Persons liable for payment or performance of all or any portion of the Obligations, or (d) any agreement or stipulation extending the time of payment or modifying the terms of any of the Credit Documents, and in the event of such agreement or stipulation, Grantor and all such other Persons shall continue to be liable under the Credit Documents, as amended by such agreement or stipulation, unless expressly released and discharged in writing by Beneficiary and the Secured Parties.

39. Notices All notices, consents and other communications provided for herein shall be sent to such Person's address as follows (or to such other address indicated in an unrevoked written notice from such Person given in accordance the terms of this Paragraph):

(a) if to Grantor, Douglas Dynamics, L.L.C., 7777 North 73rd Street, Milwaukee, WI 53223, Attention: Chief Executive Officer and President, Telecopy No.: (414) 354-8448, with a copy to Aurora Capital Group, 10877 Wilshire Boulevard, Suite 2100, Los Angeles, CA 90024, Attention: Secretary, Douglas Dynamics Holdings, Inc., Telecopier No.: (310) 824-2791, with a copy to Gibson, Dunn & Crutcher LLP, 333 S. Grand Avenue, Los Angeles, CA 90071, Attention: Jeff R. Hudson, Esq., Telecopy No.: 213-229-6332

(b) if to Beneficiary or Collateral Agent, at Credit Suisse, Cayman Islands Branch, Eleven Madison Avenue, New York, NY 10010, Attention: Ian Nalitt, Telecopy No.: (212) 325-8615, with a copy to Skadden Arps Slate Meagher & Flom

LLP, 300 South Grand Avenue, Suite 3400, Los Angeles, CA 90071-3144, Attention: David Kitchen, Esq., Telecopy No.: (213) 621-5280; and

(c) if to any of the Secured Parties, at the address set forth below such Secured Party's name on the signature pages of the Credit Agreement.

Each notice hereunder shall be in writing and may be personally served, telexed or sent by telefacsimile or United States mail or courier service and shall be deemed to have been given when delivered in person or by courier service and signed for against receipt thereof, upon receipt of telefacsimile or telex, or three (3) Business Days after depositing it in the United States mail with postage prepaid and properly addressed; provided, no notice to Beneficiary shall be effective until received by Beneficiary.

40. Severability In case any provision in or obligation hereunder shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

41. Intentionally Deleted

42. Indemnification Against Liabilities Grantor will defend, indemnify, pay and hold harmless Beneficiary and the Secured Parties and their respective officers, partners, directors, trustees, employees, agents and Affiliates of Beneficiary and each of the Secured Parties from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind (including, without limitation, reasonable attorneys' fees and expenses) imposed upon or incurred by or asserted against Beneficiary and any of the Secured Parties by reason of (a) ownership of a mortgagee's/beneficiary's or participating lender's interest in the Property, (b) any accident or injury to or death of Persons or loss of or damage to or loss of the use of property occurring on or about the Premises or any part thereof or the adjoining sidewalks, curbs, vaults and vault spaces, if any, streets, alleys or ways, unless due to the willful misconduct of Beneficiary or such Secured Party, (c) any use, nonuse or condition of the Premises or any part thereof or the adjoining sidewalks, curbs, vaults and vault spaces, if any, streets, alleys or ways, (d) any failure on the part of Grantor to perform or comply with any of the terms of this Deed of Trust, (e) performance of any labor or services or the furnishing of any materials or other property in respect of the Premises or any part thereof made or suffered to be made by or on behalf of Grantor, (f) any negligence or tortious act on the part of Grantor or any of its agents, contractors, lessees, licensees or invitees, or (g) any work in connection with any alterations, changes, new construction or demolition of the Premises. All amounts payable to Beneficiary and the Secured Parties under this Paragraph shall be payable promptly on demand and shall be deemed indebtedness and Obligations secured by this Deed of Trust and any such amounts shall bear interest at the default interest rate specified in Section 2.9 of the Credit Agreement from the date of such demand. In case any action, suit or proceeding is brought against Grantor, Beneficiary and/or any of the Secured Parties by reason of any such occurrence, Grantor, upon request of Beneficiary or any of the Secured Parties will, at Grantor's expense, resist and defend such action,

suit or proceeding or cause the same to be resisted or defended by counsel designated by Beneficiary or such Secured Party and approved by Grantor.

43. No Oral Changes This Deed of Trust and its provisions cannot be changed, waived, discharged or terminated orally but only by an agreement in writing, signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

44. Governing Law THE PROVISIONS OF THIS DEED OF TRUST REGARDING THE CREATION, PERFECTION AND ENFORCEMENT OF THE LIENS AND SECURITY INTERESTS HEREIN GRANTED SHALL BE GOVERNED BY AND CONSTRUED UNDER THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED. ALL OTHER PROVISIONS OF THIS DEED OF TRUST AND THE RIGHTS AND OBLIGATIONS OF GRANTOR AND BENEFICIARY SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPALS THEREOF.

45. Construction This Deed of Trust shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument or any portion thereof to be drafted.

46. Headings Paragraph headings herein are included herein for convenience of reference only and shall not constitute a part hereof for any other purpose or be given any substantive effect.

47. After Acquired Property All property of every kind which is hereafter acquired by Grantor which, by the terms hereof, is required or intended to be subjected to the lien of this Deed of Trust shall, immediately upon the acquisition thereof by Grantor, and without any further giving of a deed of trust and/or mortgage, conveyance, assignment or transfer, become subject to the lien of this Deed of Trust.

48. Further Assurances Grantor shall execute, acknowledge and deliver to Beneficiary any documents and instruments which Beneficiary may reasonably request from time to time for the better assuring, conveying, assigning, transferring, confirming or perfecting of Beneficiary's security and rights under this Deed of Trust, in form and substance reasonably satisfactory to Beneficiary.

49. Definitions The following terms shall, for all purposes of this Deed of Trust, have the respective meanings herein specified unless the context otherwise requires and such meanings shall apply equally to the singular and plural forms of such defined terms unless a definition is provided herein for both the singular and plural form of such defined term:

(a) **"Lease"** shall mean every lease or occupancy agreement for the use or hire of all or any portion of the Premises, which shall be in effect at the date hereof or which shall hereafter be entered into by or on behalf of Grantor.

(b) **"Rents"** shall mean all rents, rent equivalents, moneys payable as damages or in lieu of rent or rent equivalents, royalties (including, without limitation, all oil and gas or other mineral royalties and bonuses), income, receivables, receipts, revenues, deposits (including, without limitation, security, utility and other deposits), accounts, cash, issues, profits, charges for services rendered, and other consideration of whatever form or nature received by or paid to or for the account of or benefit of Grantor or its agents or employees from any and all sources arising from or attributable to the Land and the Building, including, without limitation, all receivables, customer obligations, installment payment obligations and other obligations now existing or hereafter arising or created out of the sale, lease, sublease, license, concession or other grant of the right of the use and occupancy of property, and proceeds, if any, from business interruption or other loss of income insurance.

50. Successors and Assigns The terms, covenants and provisions of this Deed of Trust shall apply to and be binding upon Grantor and the successors and assigns of Grantor and shall inure to the benefit of Beneficiary, the Secured Parties and their respective successors and assigns. All grants, covenants, terms, provisions, and conditions contained herein shall run with the Land.

51. Credit Agreement In the event of any inconsistency or conflict between the terms and provisions of the Credit Agreement and this Deed of Trust, the terms and provisions of the Credit Agreement shall control.

52. Trustee The Trustee named herein shall be clothed with full power to act when action hereunder shall be required, and to execute any conveyance of the Property. In the event that the substitution of a Trustee shall become necessary for any reason, the substitution of one trustee in the place of those or any of those named herein shall be sufficient; however, more than one Trustee may be named. The term "Trustee" shall be construed to mean "Trustees" whenever the sense requires. Trustee is hereby released from all obligations imposed by statute which can be waived. The necessity of the Trustee herein named, or any successor in trust, making oath or giving bond, is expressly waived.

The Trustee, or any one acting in Trustee's stead, shall have, in Trustee's discretion, authority to employ all proper agents and attorneys in the execution of this Deed of Trust and/or in the conducting of any sale made pursuant to the terms hereof, and to pay for such services rendered out of the proceeds of the sale of the Property, should any be realized; and if no sale be made or if the proceeds of sale be insufficient to pay the same, then Grantor hereby undertakes and agrees to pay the cost of such services rendered to said Trustee. The Trustee may rely on any document believed by him in good faith to be genuine. All money received by Trustee shall, until used or applied as herein provided, be held in trust, but need not be segregated (except to the extent required by law), and Trustee shall not be liable for interest thereon.

If the Trustee shall be made a party to or shall intervene in any action or proceeding affecting the Property or the title thereto, or the interest of the Trustee or Beneficiary under this Deed of Trust, the Trustee and Beneficiary shall be reimbursed by

Grantor, immediately and without demand, for all reasonable costs, charges and attorneys' fees incurred by Trustee or either of them in any such case, and the same shall be secured hereby as a further charge and lien upon the Property.

In the event of the death, refusal, or of inability for any cause, on the part of the Trustee named herein, or of any successor trustee, to act at any time when action under the foregoing powers and trust may be required, or for any other reason satisfactory to Beneficiary, Beneficiary is authorized, either in its own name or through an attorney or attorneys in fact appointed for that purpose, by written instrument duly registered, to name and appoint a successor or successors to execute this Deed of Trust, such appointment to be evidenced by writing, duly acknowledged; and when such writing shall have been registered, the substituted trustee named therein shall thereupon be vested with all the right and title, and clothed with all the power of the Trustee named herein and such like power of substitution shall continue so long as any part of the debt secured hereby remains unpaid.

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IN WITNESS WHEREOF, Grantor has caused this Deed of Trust to be executed under seal as of the day and year first above written.

Grantor:

DOUGLAS DYNAMICS, L.L.C.

By: _____
Name:
Title:

STATE OF)
COUNTY OF)

Before me, , a Notary Public of the State and County aforesaid, personally appeared , with whom I am personally acquainted, and who, upon oath, acknowledged himself/herself to be of DOUGLAS DYNAMICS, L.L.C., a Delaware limited liability company, and that he/she as such , being authorized so to do, executed the this instrument on behalf of said DOUGLAS DYNAMICS, L.L.C..

Witness my hand and seal, at office in , , this the day of May, 2007.

_____
NOTARY PUBLIC
My Commission Expires: _____

Exhibit A

Description of the Land

SITUATE, lying and being in the 9th Civil District of Washington County, Tennessee, and being more particularly described as follows, to-wit:

BEGINNING at an iron rod in the southwesterly right of way line of Riverview Drive (Tennessee State Route 2601), corner to City of Johnson City (Deed Book 284, page 241); thence leaving Riverview Drive and with the line of the City of Johnson City, S. 41° 19' 00" W., 848.50 feet to an iron rod, corner to General Shale Products Corp. (Deed Book 693, page 422); thence with General Shale's line, the following six courses and distances: N. 34° 22' 00" W.,153.40 feet to an iron rod; N. 39° 29' 00" E.,166.20 feet to an iron rod; N. 37° 16' W.,16.0 feet to an iron rod; N. 47° 32' 07" W., 548.35 feet to a concrete monument; N. 37° 10' 39" W., 378.19 feet to iron rod; and N. 26° 38' 07" W., 334.55 feet to a concrete monument, corner to City of Johnson City (Deed Book 703, page 113); thence with the line of the City of Johnson City, the following two courses and distances: N. 75° 20' 06" E., 291.24 feet to a concrete monument, and N. 19° 11' 00" W.,175.82 feet to a concrete monument, corner to Guy and Mae Erwin (Deed Book 469, page 25); thence with Erwin's line, N. 55° 25' 00" E., 309.91 feet to a concrete monument located in the southwesterly right of way line of Riverview Drive (Tennessee State Route 2601); thence with the southwesterly right of way line of Riverview Drive, the following five courses and distances: S. 37° 32' 10" E., 333.17 feet to an iron rod; S. 41° 20' 23" E., 223.32 feet to an iron rod; S. 36° 55' 23" E., 504.89 feet to a point; S. 41° 05' 23" E., 97.0 feet to an iron rod

and S. 51° 46' 23" E., 174.58 feet to the point of BEGINNING, containing 21.599 acres, more or less, according to a map entitled "E. G. Smith Construction Products, Inc." dated September 29, 1992, prepared by Steven C. Lyons, TRLS No. 1608, 116 Free Hill Road, Gray, TN 37615.

AND BEING the same property conveyed to New DD, LLC from Douglas Dynamics, L.L.C. by Special Warranty Deed dated March 26, 2004, recorded in Roll 382, Image 2259, in the Register's Office for Washington County, Tennessee, to which reference is here made. See Certificate of Amendment amending the name from New DD, LLC to Douglas Dynamics, LLC of record in Roll 423, Image 2332, in the aforesaid Register's Office.

Schedule B

Existing Liens

1. All those exceptions to title set forth on Schedule B to Loan Policy No. 15341 issued by Lawyers Title Insurance Corporation.

2. Those liens and security interests granted in favor of the ABL Collateral Agent disclosed by the Intercreditor Agreement.

EXHIBIT K

RESTRICTED PAYMENT CERTIFICATE

All calculations under this certificate shall be for the period commencing on the first day of the first full Fiscal Quarter after the Closing Date through and including the last full Fiscal Quarter (taken as one accounting period) preceding the date of determination.

I.	**Restricted Payment EBITDA**	
(a)	Consolidated Adjusted EBITDA	$
	(i) to the extent deducted in the calculation of Consolidated Net Income for such period, all losses which are non-recurring:	$
	(ii) to the extent deducted in the calculation of Consolidated Net Income for such period, interest attributable to Attributable Indebtedness:	$
	(iii) to the extent deducted in the calculation of Consolidated Net Income for such period, the amount of all dividends accrued or payable (whether or not in cash) by the Company or any of its Subsidiaries in respect of preferred stock (other than (A) dividends on Capital Stock (other than Disqualified Capital Stock) of the Company or such Subsidiary payable solely in Capital Stock (other than Disqualified Capital Stock) of the Company or such Subsidiary, as applicable, and (B) by Subsidiaries of the Company to the Company or its wholly-owned Subsidiaries):	$
(b)	Sum of Items (i) thru (iii) above:	$
(c)	Aggregate amount of interest income of the Company and its Subsidiaries during such period paid in cash to the extent reducing Consolidated Adjusted EBITDA:	$
(d)	All gains which are non-recurring (including any gain from the issuance or sale of any Capital Stock) to the extent included in the calculation of Consolidated Net Income for such period, without duplication:	$
(e)	Sum of Items, without duplication, (a), (b) and (c):	$
Restricted Payment EBITDA (Item (e) minus Item (d)):		$

II.	**Cumulative Interest Expense**	
(a)	Interest expensed or capitalized, paid, accrued, or scheduled to be paid or accrued (including, in accordance with the following sentence, interest attributable to Capital Leases and Attributable Indebtedness) of the Company and its Subsidiaries, including (I) amortization of debt issuance costs, original issue discount, debt discounts or premium and other financing fees and expenses and non-cash interest payments or accruals on any Indebtedness, (II) the interest portion of all deferred payment obligations of the Company and its Subsidiaries, and (III) all commissions, discounts and other fees and charges owed by the Company and its Subsidiaries with respect to bankers' acceptances and letters of credit financings and Hedge Agreements:	$
(b)	All cash dividends paid by the Company or any of its Subsidiaries in respect of preferred stock (other than by Subsidiaries of the Company to the Company or its wholly owned Subsidiaries):	$
Cumulative Interest Expense (the aggregate amount (without duplication and determined in each case in accordance with GAAP) of Items (a) and (b)):		$

III.	**Restricted Payment Amount**	
(a)	Restricted Payment EBITDA:	$
(b)	product of 2.0 multiplied by Cumulative Interest Expense:	$
(c)	Item (a) minus Item (b):(20)	$

(d)	100% of the aggregate net cash proceeds received by the Company from a capital contribution or sale of Capital Stock to Holdings after the Closing Date:	$
(e)	An amount equal to the net amounts received in respect of Investments made under Section 6.7(l) or 6.7(m) of the Credit Agreement in any Person resulting from cash distributions on or cash repayments of any Investments, including payments of interest on Indebtedness, dividends, repayments of loans or advances, or other distributions or other transfers of assets, in each case to Company, DD Finance, Fisher or any of their respective Subsidiaries or from the net cash proceeds from the sale of any such Investment, not to exceed, in each case, the amount of Investments previously made by Company, DD Finance, Fisher or any of their respective Subsidiaries in such Person, less the cost of disposition (and excluding Investments in Subsidiaries):(21)	$
(f)	Sum of Items (c) through (e) above:	$
(g)	Aggregate amount of Restricted Payments made pursuant to Sections 6.5(a)(ii) and 6.5(c)(iv) of the Credit Agreement:	$
(h)	Amounts required to be applied to prepay Loans pursuant to Section 2.13(c) of the Credit Agreement:	$
(i)	(without duplication) amounts applied or utilized pursuant to Section 6.5(d), Section 6.5(f), Section 6.7(l), Section 6.7(m) or Section 6.16(c) of the Credit Agreement:	
(j)	Sum of Items (g) through (i):	$
Restricted Payment Amount (Item (f) minus Item (j)):(22)		$

(20) Not to be less than zero.

(21) Except in each case, in order to avoid duplication, to the extent any such payment or proceeds have been included in the calculation of Restricted Payment EBITDA.

(22) For purposes of this definition, (i) the amount of any payment or Investment made or returned hereunder, if other than in cash, shall be the fair market value thereof, as determined in the good faith reasonable judgment of the board of directors of the Company (or similar governing body) for such payments or Investments with a value in excess of $1.0 million, and otherwise by an executive officer of the Company at the time made or returned, as applicable, (ii) interest with respect to Capital Leases shall be deemed to accrue at an interest rate reasonably determined in good faith by the Company to be the rate of interest implicit in such Capital Lease in accordance with GAAP and (iii) interest expense attributable to any Indebtedness represented by the guarantee by the Company or any of its Subsidiaries of an obligation of another Person shall be deemed to be the interest expense attributable to the Indebtedness guaranteed.

EXHIBIT L

INTERCREDITOR AGREEMENT

EXECUTION VERSION

INTERCREDITOR AGREEMENT

by and among

DOUGLAS DYNAMICS, L.L.C.
DOUGLAS DYNAMICS FINANCE COMPANY
FISHER, LLC
DOUGLAS DYNAMICS HOLDINGS, INC.

The Grantors from Time to Time Parties Hereto,

CREDIT SUISSE, CAYMAN ISLANDS BRANCH,

as the Administrative Agent under the ABL Loan Documents,
as the Administrative Agent and the Collateral Agent under the Term Loan Documents,

and

JPMORGAN CHASE BANK, N.A.,
as the Collateral Agent under the ABL Loan Documents

Dated as of May 21, 2007

TABLE OF CONTENTS

INTERCREDITOR AGREEMENT

This INTERCREDITOR AGREEMENT, dated as of May 21, 2007, and entered into by and among Douglas Dynamics, L.L.C., a Delaware limited liability company ("Douglas"), Douglas Dynamics Finance Company, a Delaware corporation ("DD Finance") and Fisher, LLC, a Delaware limited liability company ("Fisher", and collectively with Douglas and DD Finance, the "ABL Borrower"), Douglas Dynamics Holdings, Inc., a Delaware corporation ("Holdings"), each other Grantor (as hereinafter defined) from time to time party hereto, CREDIT SUISSE, acting through a Cayman Island Branch ("Credit Suisse"), in its capacity as administrative agent under the ABL Loan Documents (as defined below) (together with its successors and assigns from time to time in such capacity (the "ABL Administrative Agent"), JPMorgan Chase Bank, N.A. ("JPMCB") in its capacity as collateral agent under the ABL Loan Documents (together with its successors and assigns from time to time in such capacity, the "ABL Collateral Agent"), Credit Suisse, in its capacities as administrative agent (together with its successors and assigns from time to time in such capacity the "Term Administrative Agent") and collateral agent under the Term Loan Documents (as defined below) (together with its successors and assigns from time to time in such capacity, the "Term Collateral Agent"). Capitalized terms used herein but not otherwise defined herein have the meanings set forth in the ABL Credit Agreement or the Term Credit Agreement, as context requires.

RECITALS

WHEREAS, the ABL Borrower, Holdings, the lenders party thereto, the ABL Administrative Agent and the ABL Collateral Agent have entered into that certain Credit Agreement, dated as of the date hereof (as amended, restated, supplemented, modified and/or Refinanced from time to time in accordance with the terms hereof and thereof, the "ABL Credit Agreement");

WHEREAS, Douglas (the "Term Borrower"), Holdings, the Subsidiary Guarantors, the lenders party thereto, the Term Collateral Agent and the Term Administrative Agent have entered into that certain Credit Agreement, dated as of the date hereof (as amended, restated, supplemented, modified and/or Refinanced from time to time in accordance with the terms hereof and thereof, the "Term Credit Agreement");

WHEREAS, the obligations of the ABL Borrower and the other Grantors under the ABL Loan Documents and all ABL Hedging Obligations will be secured by substantially all the property and assets of the ABL Borrower and the other Grantors, respectively, pursuant to the terms of the ABL Security Documents;

WHEREAS, the obligations of the Term Borrower and the other Grantors under the Term Loan Documents will be secured by substantially all the property and assets of the Term Borrower and the other Grantors, respectively, pursuant to the terms of the Term Security Documents;

WHEREAS, the ABL Loan Documents and the Term Loan Documents provide, among other things, that the parties thereto shall set forth in this Agreement their respective rights and remedies with respect to the Collateral;

WHEREAS, in order to induce the ABL Collateral Agent and the ABL Creditors to consent to the Grantors incurring the Term Obligations and to induce the ABL Creditors to extend credit and other financial accommodations and lend monies to or for the benefit of the ABL Borrower or any other Grantor, the Term Collateral Agent on behalf of the Term Creditors (and each Term Creditor by its acceptance of the benefits of the Term Security Documents) has agreed to the lien subordination, intercreditor and other provisions set forth in this Agreement;

WHEREAS, in order to induce the Term Collateral Agent and the Term Creditors to consent to the Grantors incurring the ABL Obligations and to induce the Term Creditors to extend credit and other financial accommodations and lend monies to or for the benefit of Douglas or any other Grantor, the ABL Collateral Agent on behalf of the ABL Creditors (and each ABL Creditor by its acceptance of the benefits of the ABL Security Documents) has agreed to the lien subordination, intercreditor and other provisions set forth in this Agreement;

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

ARTICLE I

DEFINITIONS

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

"ABL Administrative Agent" has the meaning set forth in the preamble hereto.

"ABL Banking Services Agreement" shall mean any Banking Services Agreement (as defined in the ABL Credit Agreement) entered into by a Grantor and any ABL Banking Services Provider (or any Person who was an ABL Banking Services Provider as of the date such Banking Services Agreement was entered into).

"ABL Banking Services Provider" shall mean, with respect to any Banking Services Agreement, any counterparty thereto that, at the time such Banking Services Agreement was entered into or as of the date of this Agreement, was an ABL Administrative Agent, ABL Collateral Agent or ABL Lender or an Affiliate of an ABL Administrative Agent, ABL Collateral Agent or ABL Lender.

"ABL Banking Services Obligations" of the Grantors means any and all obligations of the Grantors, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor and the payment of interest and other amounts that would

accrue and become due but for the commencement of any Insolvency or Liquidation Proceeding at the rate provided for in the respective documentation, whether or not a claim for post-petition interest is allowed in any such Insolvency or Liquidation Proceeding) in connection with Banking Services Agreement (as defined in the ABL Credit Agreement).

"ABL Borrower" shall mean collectively, Douglas, DD Finance and Fisher, as borrowers under the ABL Credit Agreement.

"ABL Collateral Agent" has the meaning provided in the Preamble hereto.

"ABL Credit Agreement" has the meaning set forth in the recitals hereto.

"ABL Creditor Post-Petition Financing" has the meaning set forth in Section 6.1(a)(i) hereto.

"ABL Creditors" shall mean, at any relevant time, the holders of ABL Obligations at such time, including, without limitation, the ABL Lenders, the ABL Banking Services Providers, the ABL Hedge Providers, the ABL Collateral Agent, the ABL Administrative Agent and the other agents under the ABL Credit Agreement.

"ABL Documents" shall mean and include the ABL Loan Documents, the ABL Banking Services Agreements, and the ABL Hedge Agreements.

"ABL Guaranty" means the guaranty pursuant to Section VII of the ABL Credit Agreement.

"ABL Hedge Agreement" shall mean any Hedge Agreement (as defined in the ABL Credit Agreement) entered into by a Grantor and any ABL Hedge Provider (or any Person who was an ABL Hedge Provider as of the date such Hedge Agreement was entered into).

"ABL Hedge Provider" shall mean, with respect to any Hedge Agreement, any counterparty thereto that, at the time such Hedge Agreement was entered into or as of the date of this Agreement, was an ABL Administrative Agent, ABL Collateral Agent or ABL Lender or an Affiliate of an ABL Administrative Agent, ABL Collateral Agent or ABL Lender.

"ABL Hedging Obligations" shall mean (i) the full and prompt payment when due (whether at the stated maturity, by acceleration or otherwise) of all obligations (including obligations which, but for the automatic stay under Section 362(a) of the Bankruptcy Code, would become due) and liabilities (including, without limitation, indemnities, fees and interest thereon and including the payment of interest and other amounts that would accrue and become due but for the commencement of any Insolvency or Liquidation Proceeding at the rate provided for in the respective documentation, whether or not a claim for post-petition interest is allowed in any such Insolvency or Liquidation Proceeding) of each Grantor owing to the ABL Hedge Providers, now existing or hereafter incurred under, arising out of or in connection with each ABL Hedge Agreement (including all such obligations and indebtedness under any guarantee to which each Grantor is a party) and (ii) the due performance and compliance by each Grantor with the terms, conditions and agreements of each ABL Hedge Agreement.

"ABL Lenders" shall mean the "Lenders" under, and as defined in, the ABL Credit Agreement; provided that the term "ABL Lender" shall in any event include each letter of credit issuer and each swingline lender under the ABL Credit Agreement.

"ABL Loan Commitments" shall mean the loan commitments under the ABL Credit Agreement.

"ABL Loan Documents" shall mean the ABL Credit Agreement and the Credit Documents (as defined in the ABL Credit Agreement) and each of the other agreements, documents and instruments executed or delivered at any time in connection therewith (including any intercreditor or joinder agreement among holders of ABL Obligations but excluding ABL Hedge Agreements), to the extent such are effective at the relevant time, as each may be amended, supplemented, restated, modified and/or replaced from time to time in accordance with the terms hereof and thereof.

"ABL Mortgages" shall mean a collective reference to each mortgage, deed of trust and any other document or instrument under which any Lien on real property owned or leased by any Grantor is granted to secure any ABL Obligations or under which rights or remedies with respect to any such Liens are governed.

"ABL Obligations" shall mean (i) all Obligations outstanding under the ABL Credit Agreement and the other ABL Loan Documents, (ii) all ABL Hedging Obligations and (iii) all ABL Banking Services Obligations. "ABL Obligations" shall in any event include: (a) all interest accrued or accruing (or which would, absent commencement of an Insolvency or Liquidation Proceeding (and the effect of provisions such as Section 502(b)(2) of the Bankruptcy Code), accrue) after commencement of an Insolvency or Liquidation Proceeding in accordance with the rate specified in the relevant ABL Document, whether or not the claim for such interest is allowed as a claim in such Insolvency or Liquidation Proceeding, (b) any and all fees and expenses (including attorneys' and/or financial consultants' fees and expenses) incurred by the ABL Collateral Agent, the ABL Administrative Agent and the ABL Creditors after the commencement of an Insolvency or Liquidation Proceeding, whether or not the claim for fees and expenses is allowed under Section 506(b) of the Bankruptcy Code or any other provision of the Bankruptcy Code or Bankruptcy Law as a claim in such Insolvency or Liquidation Proceeding and (c) all obligations and liabilities of each Grantor under each ABL Document to which it is a party which, but for the automatic stay under Section 362(a) of the Bankruptcy Code, would become due. The ABL Obligations shall not include (x) principal of Loans or stated amounts of Letters of Credit in excess of the Maximum ABL Principal Amount as in effect at the time incurred or (y) any amount in clauses (a) through (c) of the preceding sentence incurred in connection with the enforcement of the excess amounts referred to in preceding clause (x).

"ABL Priority Collateral" means all Collateral consisting of the following:

(a) all Accounts;

(b) all Inventory;

(c) all Deposit Accounts and Securities Accounts and all cash, checks and other property held therein or credited thereto (other than identifiable cash proceeds of Term Priority Collateral held therein);

(d) to the extent evidencing, governing, securing or otherwise related to the items referred to in the preceding clauses (a) through (c), all General Intangibles, Chattel Paper, Instruments, and Documents, provided that to the extent any of the foregoing also relates to Term Priority Collateral, only that portion related to the items referred to in the preceding clauses (a) through (c) shall be included in the ABL Priority Collateral;

(e) to the extent evidencing, governing, securing or otherwise related to the items referred to in the preceding clauses (a) through (d), all Supporting Obligations, provided that to the extent any of the foregoing also relates to Term Priority Collateral, only that portion related to the items referred to in the preceding clauses (a) through (d) shall be included in the ABL Priority Collateral;

(f) all books and records relating to the foregoing; and

(g) all Proceeds and products of each of the foregoing and all accessions to, substitutions and replacements for, and rents, profits and products of, each of the foregoing, any and all Proceeds of any insurance, indemnity, warranty or guaranty payable to such Grantor from time to time with respect to any of the foregoing.

All capitalized terms used in this definition and not defined elsewhere in this Agreement have the meanings assigned to them in the UCC.

"ABL Recovery" has the meaning set forth in Section 6.5(a) hereto.

"ABL Required Lenders" shall mean the "Requisite Lenders" under, and as defined in, the ABL Credit Agreement.

"ABL Secured Parties" shall mean, at any time, the ABL Collateral Agent, the ABL Administrative Agent, each ABL Creditor, the beneficiaries of each indemnification obligation undertaken by any Grantor under any ABL Document and each other holder of, or obligee in respect of, any ABL Obligations outstanding at such time.

"ABL Security Documents" shall mean the Collateral Documents (as defined in the ABL Credit Agreement), and any other agreement, document, mortgage or instrument pursuant to which a Lien is granted securing any ABL Obligations or under which rights or remedies with respect to such Liens are governed, as the same may be amended, supplemented, restated, modified and/or replaced from time to time in accordance with the terms hereof and thereof.

"ABL Security Agreement" shall mean the Pledge and Security Agreement, dated as of the date hereof, among the Borrower, the other Grantors from time to time party thereto and the ABL Collateral Agent, as the same may be amended, supplemented, restated, modified and/or replaced from time to time in accordance with the terms hereof and thereof.

"Affiliate" shall mean as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" of a Person means the power, directly or indirectly, either to (a) vote 50% or more of the securities having ordinary voting power for the election of directors (or persons performing similar functions) of such Person or (b) direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities, or contract.

"Agreement" shall mean this Agreement, as amended, supplemented, restated, modified and/or replaced from time to time in accordance with the terms hereof and thereof.

"Bankruptcy Code" shall mean Title 11 of the United States Code entitled "Bankruptcy," as now and hereafter in effect, or any successor statute.

"Bankruptcy Court" has the meaning set forth in Section 6.1(a)(ii) hereto.

"Bankruptcy Law" shall mean, collectively, the Bankruptcy Code as now and hereafter in effect, or any successor statute, and any similar federal provincial, state or foreign law for the relief of debtors.

"Borrower" shall mean (a) with respect to each of the ABL Documents, the ABL Borrower, and (b) with respect to the Term Loan Documents, the Term Borrower.

"Business Day" shall mean a day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to close.

"Collateral" shall mean all assets and properties upon which a Lien is granted or purported to be granted to the ABL Collateral Agent or Term Collateral Agent under any of the ABL Security Documents or Term Security Documents.

"Collateral Agent" means, as the context requires, collectively, the ABL Collateral Agent and/or the Term Collateral Agent.

"Comparable ABL Security Document" shall mean, in relation to any ABL Priority Collateral subject to any Lien created under any Term Security Document, that ABL Security Document which creates a Lien on the same ABL Priority Collateral, granted by the same Grantor.

"Comparable Term Security Document" shall mean, in relation to any ABL Priority Collateral subject to any Lien created under any ABL Security Document, that Term Security Document which creates a Lien on the same ABL Priority Collateral, granted by the same Grantor.

"Creditors" shall mean, collectively, the ABL Creditors and the Term Creditors.

"Credit Suisse" has the meaning set forth in the preamble hereto.

"DD Finance" has the meaning set forth in the preamble hereto.

"Discharge of ABL Obligations" shall mean, except to the extent otherwise provided in Section 5.7 (and subject to Section 6.5), (a) payment in full in cash of the principal of and interest (including interest accruing on or after the commencement of any Insolvency or Liquidation Proceeding, whether or not such interest would be allowed in such Insolvency or Liquidation Proceeding) and premium, if any, on all Indebtedness outstanding under the ABL Documents, (b) payment in full of all other ABL Obligations that are due and payable or otherwise accrued and owing at or prior to the time such principal and interest and premium, if any, are paid, (c) expiration, cancellation (without any prior demand for payment thereunder having been made or, if made, with such demand having been fully reimbursed in cash), cash collateralization or backstopping with a letter of credit reasonably acceptable to the Issuing Lender (in this case, as such term is defined in the ABL Credit Agreement) of all letters of credit issued under the ABL Credit Agreement and cash collateralization of any Grantor's net obligation under ABL Hedge Agreements (to the extent required thereby with notification by the relevant ABL Hedge Providers to the ABL Collateral Agent) and (d) termination of all other commitments of the ABL Creditors under the ABL Loan Documents.

"Discharge of Term Obligations" shall mean, except to the extent otherwise provided in Section 5.7 (and subject to Section 6.5), (a) payment in full in cash of the principal of and interest (including interest accruing on or after the commencement of any Insolvency or Liquidation Proceeding, whether or not such interest would be allowed in such Insolvency or Liquidation Proceeding) and premium, if any, on all Indebtedness outstanding under the Term Loan Documents, (b) payment in full of all other Term Obligations that are due and payable or otherwise accrued and owing at or prior to the time such principal and interest and premium, if any, are paid and (c) termination of all other commitments of the Term Creditors under the Term Loan Documents.

"Documents" shall mean, as the context requires, collectively, the ABL Documents and the Term Loan Documents.

"Douglas" has the meaning set forth in the preamble hereto.

"Equity Interests" of any Person shall mean any and all shares, interests, rights to purchase, warrants, options, participation or other equivalents of or interest in (however designated, whether voting or nonvoting) equity of such Person, including any common stock, preferred stock, any limited or general partnership interest and any limited liability company membership interest and any and all warrants, rights or options to purchase any of the foregoing.

"Exposure Amount" shall mean, with respect to any ABL Creditor Post-Petition Financing or Term Creditor Post-Petition Financing, the sum of (without duplication) (i) the aggregate principal amount of the commitments thereunder, (ii) any principal amount (for this purpose, including the maximum undrawn amounts of any then outstanding letters of credit and the aggregate amount of unpaid outstanding reimbursement obligations related thereto, and excluding all ABL Hedging Obligations and ABL Banking Services Obligations) outstanding pursuant to the ABL Credit Agreement as of the commencement of the relevant Insolvency or Liquidation Proceeding, and (iii) the aggregate principal amount of Term Obligations as of the commencement of such Insolvency or Liquidation Proceeding.

"Fisher" has the meaning set forth in the preamble hereto.

"Governmental Authority" shall mean any nation or government, any state, provincial or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank), any securities exchange and any self-regulatory organization (including the National Association of Insurance Commissioners).

"Grantors" shall mean Holdings, the ABL Borrower, the Term Borrower and each of the Subsidiary Guarantors that have executed and delivered, or may from time to time hereafter execute and deliver, an ABL Security Document or a Term Security Document.

"Hedge Agreement" shall mean any agreement with respect to any swap, cap, collar, hedge, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower or any of its Subsidiaries shall be a "Hedge Agreement".

"Holdings" has the meaning set forth in the preamble hereto.

"Indebtedness" shall mean and includes all Obligations that constitute "Indebtedness" within the meaning of the ABL Credit Agreement or the Term Credit Agreement.

"Insolvency or Liquidation Proceeding" shall mean (a) any voluntary or involuntary case or proceeding under the Bankruptcy Code or any other Bankruptcy Law or any other Bankruptcy Law with respect to any Grantor, (b) any other voluntary or involuntary insolvency, reorganization, arrangement or bankruptcy case or proceeding, or any receivership, liquidation, reorganization, arrangement or other similar case or proceeding with respect to any Grantor or with respect to a material portion of its respective assets, (c) any liquidation, dissolution, reorganization or winding up of any Grantor whether voluntary or involuntary and whether or not involving insolvency or bankruptcy or (d) any assignment for the benefit of creditors or any other marshalling of assets and liabilities of any Grantor.

"Letters of Credit" shall mean "Letters of Credit" under, and as defined in, the ABL Credit Agreement.

"Lien" shall mean any mortgage, pledge, security interest, encumbrance, lien or charge of any kind (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement, any financing or similar statement or notice filed under the UCC or any similar recording or notice statute, and any lease having substantially the same effect as the foregoing).

"Loans" shall mean "Loans" under, and as defined in, the ABL Credit Agreement.

"Maximum ABL Principal Amount" shall mean, at any time, (i) $90,000,000, less (ii) the aggregate permanent reductions in the ABL Loan Commitments other than any such reduction, repayment or prepayment made in connection with a Refinancing, less (iii) the aggregate principal amount of Additional Term Loans (as defined in the Term Credit Agreement) made under the Term Credit Agreement, plus (iv) for the avoidance of doubt and without duplication, the aggregate principal amount of any interest that has been capitalized under the ABL Credit Agreement.

"Maximum Exposure Amount" shall mean, with respect to any ABL Creditor Post-Petition Financing or Term Creditor Post-Petition Financing, the sum of (i) the portion of the Maximum ABL Principal Amount outstanding as of the commencement of the relevant Insolvency or Liquidation Proceeding, (ii) the portion of the Maximum Term Principal Amount as of the commencement of such Insolvency or Liquidation Proceeding and (iii) $40,000,000.

"Maximum Term Principal Amount" shall mean, at any time, (i) $115,000,000, less (ii) the aggregate principal amount of permanent repayments or prepayments of indebtedness under the Term Credit Agreement, other than any such reduction, repayment or prepayment made in connection with a Refinancing, less (iii) the aggregate principal amount of Additional Revolving Loan Commitments (as defined in the ABL Credit Agreement) made under the Term Credit Agreement, plus (iv) for the avoidance of doubt and without duplication, the aggregate principal amount of any interest that has been capitalized under the Term Credit Agreement.

"New ABL Agent" has the meaning set forth in Section 5.7(a) hereto.

"New Term Agent" has the meaning set forth in Section 5.7(b) hereto.

"Obligations" shall mean any and all obligations (including guaranty obligations) with respect to the payment and performance of (a) any principal of or interest or premium on any indebtedness, including, without limitation, any reimbursement obligation in respect of any letter of credit, or any other liability, including the payment of interest and other amounts that would accrue and become due but for the commencement of any Insolvency or Liquidation Proceeding of any Grantor at the rate

provided for in the respective documentation, whether or not a claim for post-petition interest is allowed in any such Insolvency or Liquidation Proceeding, (b) any fees, indemnification obligations, expense reimbursement obligations or other liabilities payable under the documentation governing any indebtedness (including, without limitation, the retaking, holding, selling or otherwise disposing of or realizing on the Collateral), (c) any obligation to post cash collateral in respect of letters of credit or any other obligations, and (d) all performance obligations under the documentation governing any indebtedness.

"Person" shall mean an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

"Refinancing" shall mean,

(a) in respect of any Indebtedness and/or, if any, commitments to extend credit under the ABL Credit Agreement, any refinancing, extension, renewal, defeasance,

restructuring, replacement or refunding of loans and/or, if any, commitments under the ABL Credit Agreement, to the extent the aggregate principal amount of loans and commitments made in connection with such refinancing, extension, renewal, defeasance, restructuring, replacement or refunding does not exceed the Maximum ABL Principal Amount; provided that any such refinancing, extension, renewal, defeasance, restructuring, replacement or refunding (and the Indebtedness resulting therefrom) does not (i) contravene the provisions of this Agreement (and the holders of such refinancing Indebtedness, or an agent on their behalf, have agreed to be bound by the terms hereof), (ii) result in the increase in the "Applicable Margin" or similar component of the interest or the yield on the loans thereunder by more than 1.5% per annum (exclusive, for the avoidance of doubt, of any increases (A) resulting from application of the pricing grid set forth in the ABL Credit Agreement as in effect on the date hereof or (B) resulting from the accrual of interest at the default rate), (iii) provide for dates for payment of principal, interest, premium (if any) or fees which are earlier than such dates under the ABL Credit Agreement, or (iv) convert the ABL Credit Agreement to, or refinance the ABL Credit Agreement with, a term loan credit facility or a revolving credit facility the availability of which is not subject to a borrowing base comprised of accounts receivable and inventory.

(b) in respect of any Indebtedness and/or, if any, commitments to extend credit under the Term Credit Agreement, any refinancing, extension, renewal, defeasance, restructuring, replacement or refunding of loans and/or, if any, commitments under the Term Credit Agreement, to the extent the aggregate principal amount of loans and commitments made in connection with such refinancing, extension, renewal, defeasance, restructuring, replacement or refunding does not exceed the Maximum Term Principal Amount; provided that any such refinancing, extension, renewal, defeasance, restructuring, replacement or refunding (and the Indebtedness resulting therefrom) does not (i) contravene the provisions of this Agreement (and the holders of such refinancing Indebtedness, or an agent on their behalf, have agreed to be bound by the terms hereof), (ii) result in an increase in the "Applicable Margin" or similar component of the interest yield of such refinancing Indebtedness which is more than 3.0% per annum above the "Applicable Margin" or similar component under the Term Credit Agreement as of the date hereof (excluding increases resulting from the accrual of interest at the default rate); and (iii) change (to earlier dates) any dates upon which payments of principal or interest are due thereon.

With respect to clause (a), the Term Administrative Agent shall be provided with written notice by the Borrower that the Obligations arising from the refinancing, extension, renewal, defeasance, restructuring, replacement or refunding referenced in clause (a) are intended to constitute ABL Obligations hereunder (it being understood that the failure of any such notice to be given shall not impair or affect the Term Administrative Agent's or the Term Creditor's obligations to the ABL Administrative Agent and the ABL Creditors, the ABL Administrative Agent's rights hereunder, the enforceability of this Agreement or any liens created or granted hereby or under any ABL Loan Document). With respect to clause (b), the ABL Administrative Agent shall be provided with written notice that the Obligations arising from the refinancing, extension, renewal, defeasance, restructuring, replacement or refunding referenced in clause (b) are intended to constitute Term Obligations hereunder (it being understood that the failure of any such notice to be given shall not impair or affect the ABL Administrative Agent's or any ABL Creditor's obligations to the Term Administrative Agent and the Term Creditors, the Term

Administrative Agent's rights hereunder, the enforceability of this Agreement or any liens created or granted hereby or under any Term Document).

"Required ABL Creditors" shall mean at all times prior to the occurrence of the Discharge of ABL Obligations, the ABL Required Lenders (or, to the extent required by the ABL Credit Agreement, each of the ABL Lenders).

"Required Term Creditors" shall mean at all times prior to the occurrence of the Discharge of Term Obligations, the Term Required Lenders (or, to the extent required by the Term Credit Agreement, each of the Term Lenders).

"Security Documents" shall mean, collectively, the ABL Security Documents and the Term Security Documents.

"Subsidiary Guarantors" shall mean each Subsidiary of Holdings which enters into a guaranty of any ABL Obligations or Term Obligations.

"Subsidiary" shall mean, as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other Equity Interests having ordinary voting power (other than stock or such other Equity Interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise qualified, all references to a "Subsidiary" or to "Subsidiaries" in this Agreement shall refer to a Subsidiary or Subsidiaries of the Borrower.

"Term Administrative Agent" has the meaning set forth in the preamble hereto.

"Term Borrower" has the meaning set forth in the preamble hereto.

"Term Collateral Agent" has the meaning provided in the first paragraph of this Agreement.

"Term Credit Agreement" has the meaning set forth in the recitals hereto.

"Term Creditor Post-Petition Financing" has the meaning set forth in Section 6.1(b)(i) hereto.

"Term Creditors" shall mean, at any relevant time, the holders of Term Obligations at such time, including without limitation the Term Lenders, the Term Collateral Agent, the Term Administrative Agent and any other agents under the Term Credit Agreement.

"Term Lenders" shall mean the "Lenders" under and as defined in the Term Credit Agreement.

"Term Loan Documents" shall mean the Term Credit Agreement and the other Credit Documents (as defined in the Term Credit Agreement) and each of the other agreements, documents and instruments executed or delivered at any time in connection therewith (including any intercreditor or joinder agreement among holders of Term Obligations), to the extent such are effective at the relevant time, as the same may be amended, supplemented, restated, modified and/or replaced from time to time in accordance with the terms hereof and thereof.

"Term Obligations" shall mean all Obligations outstanding under the Term Credit Agreement and the other Term Loan Documents. "Term Obligations" shall in any event include: (a) all interest accrued or accruing (or which would, absent commencement of an Insolvency or Liquidation Proceeding (and the effect of provisions such as Section 502(b)(2) of the Bankruptcy Code), accrue) after commencement of an Insolvency or Liquidation Proceeding in accordance with the rate specified in the relevant Term Loan Document whether or not the claim for such interest is allowed as a claim in such Insolvency or Liquidation Proceeding and (b) any and all fees and expenses (including attorneys' and/or financial consultants' fees and expenses) incurred by the Term Collateral Agent, the Term Administrative Agent and the Term Creditors after the commencement of an Insolvency or Liquidation Proceeding, whether or not the claim for fees and expenses is allowed under Section 506(b) of the Bankruptcy Code or any other provision of the Bankruptcy Code or Bankruptcy Law as a claim in such Insolvency or Liquidation Proceeding. The Term Obligations shall not include (x) principal in excess of the Maximum Term Principal Amount or (y) any amount in clauses (a) through (c) of the preceding sentence incurred in connection with the enforcement of the excess amounts referred to in preceding clause (x).

"Term Priority Collateral" shall mean any and all Collateral, other than the ABL Priority Collateral.

"Term Recovery" has the meaning set forth in Section 6.5(b) hereto.

"Term Required Lenders" shall mean the "Requisite Lenders" under, and as defined in, the Term Credit Agreement.

"Term Secured Parties" shall mean, at any time, the Term Collateral Agent, the Term Administrative Agent, each Term Creditor, the beneficiaries of each indemnification obligation undertaken by any Grantor under any Term Document and each other holder of, or obligee in respect of, any Term Obligations outstanding at such time.

"Term Security Documents" shall mean the Collateral Documents (as defined in the Term Credit Agreement), and any other agreement, document, mortgage or instrument pursuant to which a Lien is granted securing any Term Obligations or under which rights or remedies with respect to such Liens are governed, as the same may be amended, supplemented, restated, modified and/or replaced from time to time in accordance with the terms hereof and thereof.

"Term Security Agreement" shall mean the Pledge and Security Agreement, dated as of the date hereof, among the Borrower, the other Grantors from time to time party thereto and the Term Collateral Agent, as the same may be amended, supplemented, restated, modified

and/or replaced from time to time or otherwise modified from time to time in accordance with the terms hereof and thereof.

"Term Guaranty" shall mean the guaranty pursuant to Section VII of the Term Credit Agreement.

"Uniform Commercial Code" or "UCC" means the Uniform Commercial Code as from time to time in effect in the State of New York.

SECTION 1.2 Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall". Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified, (b) any reference herein to any Person shall be construed to include such Person's successors and assigns, (c) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Exhibits or Sections shall be construed to refer to Exhibits or Sections of this Agreement, (e) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights, (f) terms defined in the UCC but not otherwise defined herein shall have the same meanings herein as are assigned thereto in the UCC, (g) reference to any law means such law as amended, modified, codified, replaced or re-enacted, in whole or in part, and in effect on the date hereof, including rules, regulations, enforcement procedures and any interpretations promulgated thereunder and (h) underscored references to Sections or clauses shall refer to those portions of this Agreement, and any underscored references to a clause shall, unless otherwise identified, refer to the appropriate clause within the same Section in which such reference occurs.

ARTICLE II

PRIORITY OF LIENS; ETC.

SECTION 2.1 Subordination of Liens; Etc. (a) ABL Priority Collateral. Notwithstanding the date, manner or order of grant, attachment or perfection of (x) any Liens securing the ABL Obligations granted on the ABL Priority Collateral or (y) any Liens securing the Term Obligations granted on the ABL Priority Collateral and notwithstanding any provision of the UCC, any other applicable law, the Term Loan Documents or any other circumstance whatsoever (including any invalidity or non-perfection of any Lien purporting to secure the ABL Obligations, and/or the Term Obligations), the Term Collateral Agent, on behalf of itself and the other Term Creditors, and each other Term Creditor (by its acceptance of the benefits of the Term Loan Documents) hereby agree that:

(i) any Lien on the ABL Priority Collateral securing any ABL Obligations now or hereafter held by or on behalf of the ABL Collateral Agent or any ABL Creditors or any agent or trustee therefor, regardless of how acquired, whether by grant, possession, statute, operation of law, subrogation or otherwise, shall be senior in all respects and prior to any Lien on the ABL Priority Collateral securing any of the Term Obligations;

(ii) all Liens on the ABL Priority Collateral securing any ABL Obligations shall be and remain senior in all respects and prior to all Liens on the ABL Priority Collateral securing any Term Obligations, whether or not such Liens securing any ABL Obligations are subordinated to any Lien securing any other obligation of the Borrower, any other Grantor or any other Person;

(iii) it is their intent that (x) the ABL Obligations (and the security therefor) constitute a separate and distinct class (and separate and distinct claims) from the Term Obligations (and the security therefore) and (y) the Term Obligations (and the security therefor) constitute a separate and distinct class (and separate and distinct claims) from the ABL Obligations (and the security therefor).

(b) Term Priority Collateral. Notwithstanding the date, manner or order of grant, attachment or perfection of (x) any Liens securing the Term Obligations granted on the Term Priority Collateral or (y) any Liens securing the ABL Obligations granted on the Term Priority Collateral and notwithstanding any provision

of the UCC, any other applicable law, the ABL Loan Documents or any other circumstance whatsoever (including any invalidity or non-perfection of any Lien purporting to secure the Term Obligations and/or the ABL Obligations), the ABL Collateral Agent, on behalf of itself and the other ABL Creditors, and each other ABL Creditor (by its acceptance of the benefits of the ABL Loan Documents) hereby agree that:

(i) any Lien on the Term Priority Collateral securing any Term Obligations now or hereafter held by or on behalf of the Term Collateral Agent or any Term Creditors or any agent or trustee therefor, regardless of how acquired, whether by grant, possession, statute, operation of law, subrogation or otherwise, shall be senior in all respects and prior to any Lien on the Term Priority Collateral securing any of the ABL Obligations;

(ii) all Liens on the Term Priority Collateral securing any Term Obligations shall be and remain senior in all respects and prior to all Liens on the Term Priority Collateral securing any ABL Obligations for all purposes, whether or not such Liens securing any Term Obligations are subordinated to any Lien securing any other obligation of the Borrower, any other Grantor or any other Person;

(iii) it is their intent that (x) the Term Obligations (and the security therefor) constitute a separate and distinct class (and separate and distinct claims) from the ABL Obligations (and the security therefor) and (y) the ABL Obligations (and the security therefor) constitute a separate and distinct class (and separate and distinct claims) from the Term Obligations (and the security therefor).

Notwithstanding anything to the contrary contained above or elsewhere in this Agreement, for all purposes of this Agreement (x) the ABL Obligations shall be deemed secured by Liens on all ABL Priority Collateral regardless of whether a Lien or security interest has in fact been granted (or purported to be granted) with respect thereto and (y) the Term Obligations shall be deemed secured by Liens on all Term Priority Collateral regardless of whether a Lien or security interest has in fact been granted (or purported to be granted) with respect thereto.

SECTION 2.2 Prohibition on Contesting Liens. The Term Collateral Agent, for itself and on behalf of each Term Creditor, and the ABL Collateral Agent, for itself and on behalf of each ABL Creditor, agrees that it shall not (and hereby waives any right to) contest or support any other Person in contesting, in any proceeding (including, without limitation, any Insolvency or Liquidation Proceeding), (i) the validity or enforceability of any Security Document or any Obligation thereunder, (ii) the validity, perfection, priority or enforceability of the Liens, mortgages, assignments and security interests granted (or purported to be granted) pursuant to the Security Documents with respect to the ABL Obligations or the Term Obligations, or (iii) the relative rights and duties of the holders of the ABL Obligations and the Term Obligations granted and/or established in this Agreement or any other Security Document (to the extent not inconsistent with the terms of this Agreement) with respect to such Liens, mortgages, assignments, and security interests; provided that nothing in this Agreement shall be construed to prevent or impair the rights of any Collateral Agent or any other Creditor to enforce this Agreement, including the priority of the Liens securing the respective Obligations as provided in Section 2.1.

SECTION 2.3 No New Liens. (a) ABL Obligation — ABL Priority Collateral. So long as the Discharge of ABL Obligations has not occurred, the parties hereto agree that the Grantors shall not, and shall not permit any of their Subsidiaries to (i) grant or permit any additional Liens, or take any action to perfect any additional Liens, on any ABL Priority Collateral to secure any Term Obligation unless the Grantors and each such Subsidiary has become a Grantor hereunder and/or has also granted a Lien on such ABL Priority Collateral to secure the ABL Obligations in accordance with the relevant priority set forth in this Agreement or (ii) grant or permit any additional Liens, or take any action to perfect any additional Liens, on any ABL Priority Collateral to secure any ABL Obligation unless the Grantors and each such Subsidiary has become a Grantor hereunder and/or has also granted a Lien on such ABL Priority Collateral to secure the Term Obligations in accordance with the relevant priority set forth in this Agreement. To the extent that the forgoing provisions are not complied with for any reason, without limiting any other rights and remedies available to the ABL Collateral Agent and/or the other ABL Creditors and the Term Collateral Agent and/or the other Term Creditors (in each case by its acceptance of the benefits of the respective Security Documents), each of the ABL Collateral Agent and Term Collateral Agent agrees that any amounts received by or distributed to any of them pursuant to or as a result of any liens granted in contravention of this Section 2.3(a) shall be subject to Section 4.2(a).

(b) Term Obligations — Term Priority Collateral. So long as the Discharge of Term Obligations has not occurred, the parties hereto agree that the Grantors shall not, and shall not permit any of their Subsidiaries to (i) grant or permit any additional Liens, or take any action to perfect any additional Liens, on any Term Priority Collateral to secure any ABL Obligation unless the Grantors and each such Subsidiary has become a Grantor hereunder and/or has also

granted a Lien on such Term Priority Collateral to secure the Term Obligations in accordance with the relevant priority set forth in this Agreement or (ii) grant or permit any additional Liens, or take any action to perfect any additional Liens, on any Term Priority Collateral to secure any Term Obligation unless the Grantors and each such Subsidiary has become a Grantor hereunder and/or has also granted a Lien on such Term Priority Collateral to secure the ABL Obligations in accordance with the relevant priority set forth in this Agreement. To the extent that the forgoing provisions are not complied with for any reason, without limiting any other rights and remedies available to the Term Collateral Agent and/or the other Term Creditors and the ABL Collateral Agent and/or the other ABL Creditors (in each case by its acceptance of the benefits of the respective Security Documents), each of the ABL Collateral Agent and Term Collateral Agent agrees that any amounts received by or distributed to any of them pursuant to or as a result of any liens granted in contravention of this Section 2.3(b) shall be subject to Section 4.2(c).

SECTION 2.4 Similar Liens and Agreements. The parties hereto agree that it is their intention that the Collateral under the ABL Loan Documents and the Term Loan be identical. In furtherance of the foregoing and of Section 8.9, the parties hereto agree, subject to the other provisions of this Agreement:

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

(b) that the ABL Security Agreement and Term Security Agreement shall be substantially in the same forms (except for differences relating to the subordination of the Liens between the ABL Obligations and Term Obligations).

ARTICLE III

ENFORCEMENT

SECTION 3.1 Exercise of Remedies. (a) ABL Priority Collateral — No Contest by Term Creditors. The provisions of this clause (a) are subject to clause (k) below. So long as the Discharge of ABL Obligations has not occurred, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against the Borrower or any other Grantor: (i) the Term Collateral Agent and the other Term Creditors will not exercise or seek to exercise any rights or remedies (including, without limitation, setoff) with respect to any ABL Priority Collateral (including, without limitation, the exercise of any right under any lockbox agreement, control account agreement, landlord waiver or bailee's letter or similar agreement or arrangement to which any of the Term Collateral Agent or any Term Creditor is a party) or institute or commence, or join with any Person in commencing, any action or proceeding with respect to such rights or remedies (including, without limitation, any action of foreclosure, enforcement, collection or execution and any Insolvency or Liquidation Proceeding), and will not contest, protest or object to any foreclosure proceeding or action brought by the ABL Collateral Agent or

any ABL Creditor or any other exercise by the ABL Collateral Agent or any ABL Creditor, of any rights and remedies relating to the ABL Priority Collateral under the ABL Loan Documents or otherwise, or object to the forbearance by the ABL Collateral Agent or the ABL Creditors from bringing or pursuing any foreclosure proceeding or action or any other exercise of any rights or remedies relating to the ABL Priority Collateral; and (ii) the ABL Collateral Agent shall have the exclusive right, and the Required ABL Creditors shall have the exclusive right to instruct the ABL Collateral Agent, to enforce rights, exercise remedies (including, without limitation, set-off and the right to credit bid their debt) and make determinations regarding the release, disposition, or restrictions with respect to the ABL Priority Collateral without any consultation with or the consent of any of the Term Collateral Agent or any Term Creditor, all as though the Term Obligations did not exist; provided, that (A) in any Insolvency or Liquidation Proceeding commenced by or against the Borrower or any Grantor, the Term Collateral Agent and, if applicable, each other Term Creditor may file a claim or statement of interest with respect to the Term Obligations, (B) the Term Collateral Agent may take any action (not adverse to the prior Liens on the ABL Priority Collateral securing the ABL Obligations, or the rights of the ABL Collateral Agent or the ABL Creditors to exercise remedies in respect thereof) in order to preserve or protect their respective Liens on the ABL Priority Collateral in accordance with the terms of this Agreement and (C) the Term Creditors shall be entitled to file any necessary responsive or defensive pleading in opposition to any motion, claim, adversary proceeding or other pleading made by any Person objecting to or otherwise seeking the disallowance of the claims of the Term Creditors. In exercising rights and remedies with respect to the ABL Priority Collateral, the ABL Collateral Agent and the ABL Creditors may enforce the provisions of the ABL Loan Documents and exercise rights and remedies thereunder, all in such order and in such manner as they may determine in the exercise of their sole discretion. Such exercise and enforcement shall include the rights of an agent appointed by them to sell or otherwise dispose of ABL Priority Collateral upon foreclosure, to incur expenses in connection with such sale or disposition, and to exercise all the rights and remedies of a secured creditor under the Uniform Commercial Code of any applicable jurisdiction and of a secured creditor under Bankruptcy Laws of any applicable jurisdiction.

(b) Term Priority Collateral — No Contest by ABL Creditors. The provisions of this clause (b) are subject to clause (n) below. So long as the Discharge of Term Obligations has not occurred, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against the Borrower or any other Grantor: (i) the ABL Collateral Agent and the other ABL Creditors will not exercise or seek to exercise any rights or remedies (including, without limitation, setoff) with respect to any Term Priority Collateral (including, without limitation, the exercise of any right under any lockbox agreement, control account agreement, landlord waiver or bailee's letter or similar agreement or arrangement to which any of the ABL Collateral Agent or any ABL Creditor is a party) or institute or commence, or join with any Person in commencing, any action or proceeding with respect to such rights or remedies (including, without limitation, any action of foreclosure, enforcement, collection or execution and any Insolvency or Liquidation Proceeding), and will not contest, protest or object to any foreclosure proceeding or action brought by the Term Collateral Agent or any Term Creditor or any other exercise by the Term Collateral Agent or any Term Creditor, of any rights and remedies relating to the Term Priority Collateral under the Term Loan Documents or otherwise, or object to the forbearance by the Term Collateral Agent or the Term Creditors from bringing or pursuing any foreclosure proceeding or action or any other exercise of any rights or remedies relating to the

Term Priority Collateral; and (ii) the Term Collateral Agent shall have the exclusive right, and the Required Term Creditors shall have the exclusive right to instruct the Term Collateral Agent, to enforce rights, exercise remedies (including, without limitation, set-off and the right to credit bid their debt) and make determinations regarding the release, disposition, or restrictions with respect to the Term Priority Collateral without any consultation with or the consent of any of the ABL Collateral Agent or any ABL Creditor, all as though the ABL Obligations did not exist; provided, that in any Insolvency or Liquidation Proceeding commenced by or against the Borrower or any other Grantor, (A) the ABL Collateral Agent and, if applicable, each other ABL Creditor may file a claim or statement of interest with respect to the ABL Obligations, (B) the ABL Collateral Agent may take any action (not adverse to the prior Liens on the Term Priority Collateral securing the Term Obligations, or the rights of the Term Collateral Agent or the Term Creditors to exercise remedies in respect thereof) in order to preserve or protect their respective Liens on the Term Priority Collateral in accordance with the terms of this Agreement and (C) the ABL Creditors shall be entitled to file any necessary responsive or defensive pleading in opposition to any motion, claim, adversary proceeding or other pleading made by any Person objecting to or otherwise seeking the disallowance of the claims of the ABL Creditors, including any claim secured by the Term Priority Collateral, if any, in each case in accordance with the terms of this Agreement. In exercising rights and remedies with respect to the Term Priority Collateral, the Term Collateral Agent and the Term Creditors may enforce the provisions of the Term Loan Documents and exercise rights and remedies thereunder, all in such order and in such manner as they may determine in the exercise of their sole discretion. Such exercise and enforcement shall include the rights of an agent appointed by them to sell or otherwise dispose of Term Priority Collateral upon foreclosure, to incur expenses in connection with such sale or disposition, and to exercise all the rights and remedies of a secured creditor under the Uniform Commercial Code of any applicable jurisdiction and of a secured creditor under Bankruptcy Laws of any applicable jurisdiction.

(c) [RESERVED]

(d) [RESERVED]

(e) Receipt of ABL Priority Collateral by Term Creditors. The Term Collateral Agent, on behalf of itself and the Term Creditors, and each other Term Creditor (by its acceptance of the benefits of the Term Loan Documents) agree that it will not take or receive any ABL Priority Collateral or any proceeds of ABL Priority Collateral in connection with the exercise of any right or remedy (including, without limitation; setoff) with respect to any ABL Priority Collateral, unless and until the Discharge of ABL Obligations has occurred. Without limiting the generality of the foregoing, unless and until the Discharge of ABL Obligations has occurred, the sole right of the Term Collateral Agent and the Term Creditors with respect to the ABL Priority Collateral is to hold a Lien on the ABL Priority Collateral pursuant to the Term Security Documents for the period and to the extent granted therein and to receive a share of the proceeds thereof, if any, after the Discharge of the ABL Obligations has occurred in accordance with the terms of Article IV hereof, the Term Loan Documents and applicable law.

(f) Receipt of Term Priority Collateral by ABL Creditors. The ABL Collateral Agent, on behalf of itself and the ABL Creditors, and each other ABL Creditor (by its acceptance of the benefits of the ABL Loan Documents) agree that it will not take or receive any

Term Priority Collateral or any proceeds of Term Priority Collateral in connection with the exercise of any right or remedy (including, without limitation, setoff) with respect to any Term Priority Collateral, unless and until the Discharge of Term Obligations has occurred. Without limiting the generality of the foregoing, unless and until the Discharge of Term Obligations has occurred, the sole right of the ABL Collateral Agent and the ABL Creditors with respect to the Term Priority Collateral is to hold a Lien on the Term Priority Collateral pursuant to the ABL Security Documents for the period and to the extent granted therein and to receive a share of the proceeds thereof, if any, after the Discharge of the Term Obligations has occurred in accordance with the terms of Article IV hereof, the ABL Loan Documents and applicable law.

(g) ABL Priority Collateral — Term Creditor Waiver. (i) The Term Collateral Agent, for itself and on behalf of the Term Creditors, and each other Term Creditor (by its acceptance of the benefits of the Term Loan Documents), with respect to the ABL Priority Collateral, (x) agrees that the Term Collateral Agent and the other Term Creditors will not take any action that would hinder, delay, limit or prohibit any exercise of remedies under the ABL Loan Documents, including any collection, sale, lease, exchange, transfer or other disposition of the ABL Priority Collateral, whether by foreclosure or otherwise, or that would limit, invalidate, avoid or set aside any Lien or ABL Security Document or subordinate the priority of the ABL Obligations to the Term Obligations or grant the Liens securing the Term Obligations equal ranking to the Liens securing the ABL Obligations and (y) hereby waives any and all rights it or the Term Creditors may have as a junior lien creditor or otherwise (whether arising under the UCC or under any other law) to object to the manner in which the ABL Collateral Agent or the ABL Creditors seek to enforce or collect the ABL Obligations or the

Liens granted in any of the ABL Priority Collateral, regardless of whether any action or failure to act by or on behalf of the ABL Collateral Agent or ABL Creditors is adverse to the interests of the Term Creditors.

(ii) The Term Collateral Agent hereby acknowledges and agrees that no covenant, agreement or restriction contained in the Term Security Documents or any other Term Loan Document shall be deemed to restrict in any way the rights and remedies of the ABL Collateral Agent or the ABL Creditors with respect to the ABL Priority Collateral as set forth in this Agreement.

(h) Term Priority Collateral — ABL Creditor Waiver. (i) The ABL Collateral Agent, for itself and on behalf of the ABL Creditors, and each other ABL Creditor (by its acceptance of the benefits of the ABL Loan Documents), with respect to the Term Priority Collateral, (x) agrees that the ABL Collateral Agent and the other ABL Creditors will not take any action that would hinder, delay, limit or prohibit any exercise of remedies under the Term Loan Documents, including any collection, sale, lease, exchange, transfer or other disposition of the Term Priority Collateral, whether by foreclosure or otherwise, or that would limit, invalidate, avoid or set aside any Lien or Term Security Document or subordinate the priority of the Term Obligations to the ABL Obligations or grant the Liens securing the ABL Obligations equal ranking to the Liens securing the Term Obligations and (y) hereby waives any and all rights it or the ABL Creditors may have as a junior lien creditor or otherwise (whether arising under the UCC or under any other law) to object to the manner in which the Term Collateral Agent or the Term Creditors seek to enforce or collect the Term Obligations or the Liens granted in any of the Term Priority Collateral, regardless of whether any action or failure to act by or on behalf of the Term Collateral Agent or Term Creditors is adverse to the interests of the ABL Creditors.

(ii) The ABL Collateral Agent hereby acknowledges and agrees that no covenant, agreement or restriction contained in the ABL Security Documents or any other ABL Loan Document shall be deemed to restrict in any way the rights and remedies of the Term Collateral Agent or the Term Creditors with respect to the Term Priority Collateral as set forth in this Agreement.

(i) [RESERVED]

(j) [RESERVED]

(k) ABL Priority Collateral — Term Creditor Rights. Notwithstanding anything to the contrary in Section 3.1(a) through (h), with respect to the ABL Priority Collateral, at any time while a payment default exists with respect to the Term Obligations following the final maturity of the Term Obligations, or the acceleration by the relevant Term Creditors of the maturity of all then outstanding Term Obligations, and in either case so long as 120 days have elapsed after notice thereof (and requesting that enforcement action be taken with respect to the ABL Priority Collateral) has been received by the ABL Collateral Agent and so long as the respective payment default shall not have been cured or waived (or the respective acceleration rescinded), the Term Collateral Agent, for itself and on behalf of the Term Creditors, and the other Term Creditors may, but only if the ABL Collateral Agent or the ABL Creditors are not pursuing enforcement proceedings with respect to the ABL Priority Collateral in a commercially reasonable manner (with any determination of which ABL Priority Collateral to proceed against, and in what order, to be made by the ABL Collateral Agent or such ABL Creditors in their reasonable judgment), enforce the Liens on ABL Priority Collateral granted pursuant to the Term Security Documents, provided that (x) any ABL Priority Collateral or any proceeds of ABL Priority Collateral received by the Term Collateral Agent or such other Term Creditor, as the case may be, in connection with the enforcement of such Lien (net of reasonable costs actually incurred in connection with such enforcement) shall be applied in accordance with the following Article IV hereof and (y) the ABL Collateral Agent or any other ABL Creditors may at any time take over such enforcement proceedings, provided that the ABL Collateral Agent or such ABL Creditors, as the case may be, pursues enforcement proceedings in respect of the ABL Priority Collateral in a commercially reasonably manner, with any determination of which ABL Priority Collateral to proceed against, and in what order, to be made by the ABL Collateral Agent or such ABL Creditors in their reasonable judgment, and provided, further that the Term Collateral Agent or Term Creditors, as the case may be, shall only be able to recoup (from amounts realized by the ABL Collateral Agent or any ABL Creditor(s) in any enforcement proceeding with respect to the ABL Priority Collateral (whether initiated by the ABL Collateral Agent or ABL Creditor(s) or taken over by them as contemplated above) any expenses incurred by them in accordance with the priorities set forth in following Article IV.

(l) [RESERVED]

(m) [RESERVED]

(n) Term Priority Collateral — ABL Creditor Rights. Notwithstanding anything to the contrary in Section 3.1(a) through (h) with respect to the Term Priority Collateral, at any time while a payment default exists with respect to the ABL Obligations following the

final maturity of the ABL Obligations, or the acceleration by the relevant ABL Creditors of the maturity of all then outstanding ABL Obligations, and in either case so long as 120 days have elapsed after notice thereof (and requesting that enforcement action be taken with respect to the Term Priority Collateral) has been received by the Term Collateral Agent and so long as the respective payment default shall not have been cured or waived (or the respective acceleration rescinded), the ABL Collateral Agent, for itself and on behalf of the ABL Creditors, and the other ABL Creditors may, but only if the Term Collateral Agent or the Term Creditors are not pursuing enforcement preceding with respect to the Term Priority Collateral in a commercially reasonable manner (with any determination of which Term Priority Collateral to proceed against, and in what order, to be made by the Term Collateral Agent or such Term Creditors in their reasonable judgment), enforce the Liens on Term Priority Collateral granted pursuant to the ABL Security Documents, provided that (x) any Term Priority Collateral or any proceeds of Term Priority Collateral received by the ABL Collateral Agent or such other ABL Creditor, as the case may be, in connection with the enforcement of such Lien (net of reasonable costs actually incurred in connection with such enforcement) shall be applied in accordance with the following Article IV hereof and (y) the Term Collateral Agent or any other Term Creditors or may at any time take over such enforcement proceedings, provided that the Term Collateral Agent or such Term Creditors, as the case may be, pursues enforcement proceedings in respect of the Term Priority Collateral in a commercially reasonably manner, with any determination of which Term Priority Collateral to proceed against, and in what order, to be made by the Term Collateral Agent or such Term Creditors in their reasonable judgment, and provided, further that the ABL Collateral Agent or ABL Creditors, as the case may be, shall only be able to recoup (from amounts realized by the Term Collateral Agent or any Term Creditor(s)) in any enforcement proceeding with respect to the collateral (whether initiated by the Term Collateral Agent or Term Creditor(s), or taken over by them as contemplated above) any expenses incurred by them in accordance with the priorities set forth in following Article IV.

ARTICLE IV

PAYMENTS

SECTION 4.1 Application of Proceeds. (a) ABL Priority Collateral. So long as the Discharge of ABL Obligations has not occurred, any proceeds of any ABL Priority Collateral pursuant to the enforcement of any Security Document or the exercise of any remedial provision thereunder, together with all other proceeds received by any Creditor as a result of any such enforcement or the exercise of any such remedial provision or as a result of any distribution of or in respect of any ABL Priority Collateral (whether or not expressly characterized as such) upon or in any Insolvency or Liquidation Proceeding with respect to any Grantor, or the application of any Collateral (or proceeds thereof) to the payment thereof or any distribution of ABL Priority Collateral (or proceeds thereof) upon the liquidation or dissolution of any Grantor, shall be applied by the ABL Collateral Agent (or paid over to the ABL Collateral Agent and applied by it) to the ABL Obligations in such order as specified in the relevant ABL Loan Document. Upon the Discharge of the ABL Obligations and so long as Discharge of Term Obligations has not occurred, the ABL Collateral Agent shall deliver to

the Term Collateral Agent any proceeds of ABL Priority Collateral held by it in the same form as received, with any necessary endorsements or as a court of competent jurisdiction may otherwise direct.

(b) Term Priority Collateral. So long as the Discharge of Term Obligations has not occurred, any proceeds of any Term Priority Collateral pursuant to the enforcement of any Security Document or the exercise of any remedial provision thereunder, together with all other proceeds received by any Creditor as a result of any such enforcement or the exercise of any such remedial provision or as a result of any distribution of or in respect of any Term Priority Collateral (whether or not expressly characterized as such) upon or in any Insolvency or Liquidation Proceeding with respect to any Grantor, or the application of any Term Priority Collateral (or proceeds thereof) to the payment thereof or any distribution of Term Priority Collateral (or proceeds thereof) upon the liquidation or dissolution of any Grantor, shall be applied by the Term Collateral Agent (or paid over to the Term Collateral Agent and applied by it) to the Term Obligations in such order as specified in the relevant Term Loan Document. Upon the Discharge of the Term Obligations and so long as the Discharge of ABL Obligations has not occurred, the Term Collateral Agent shall deliver to the ABL Collateral Agent any proceeds of Term Priority Collateral held by it in the same form as received, with any necessary endorsements or as a court of competent jurisdiction may otherwise direct.

SECTION 4.2 Payments Over. (a) ABL Priority Collateral. Until such time as the Discharge of ABL Obligations has occurred, any ABL Priority Collateral or proceeds thereof (together with assets or proceeds subject to Liens referred to in the final sentence of Section 2.3(a)) (or any distribution in respect of the ABL Priority Collateral, whether or not expressly characterized as such) received by any of the Term Collateral Agent or any Term Creditors in connection with the exercise of any right or remedy (including set-off) relating to the ABL Priority Collateral or otherwise shall be segregated and held in trust and forthwith paid over to the ABL Collateral Agent for the benefit of the ABL Creditors in the same form as received, with any necessary endorsements or as a court of competent jurisdiction may otherwise direct. The ABL Collateral Agent is hereby authorized to make any such endorsements as agent for any of the Term Collateral Agent or any such Term Creditors. This authorization is coupled with an interest and is irrevocable until such time as this Agreement is terminated in accordance with its terms.

(b) [RESERVED]

(c) Term Priority Collateral. Until such time as the Discharge of Term Obligations has occurred, any Term Priority Collateral or proceeds thereof (together with assets or proceeds subject to Liens referred to in the final sentence of Section 2.3(b)) (or any distribution in respect of the Term Priority Collateral, whether or not expressly characterized as such) received by the ABL Collateral Agent or any ABL Creditors in connection with the exercise of any right or remedy (including set-off) relating to the Term Priority Collateral or otherwise shall be segregated and held in trust and forthwith paid over to the Term Collateral Agent for the benefit of the Term Creditors in the same form as received, with any necessary endorsements or as a court of competent jurisdiction may otherwise direct. The Term Collateral Agent is hereby authorized to make any such endorsements as agent for the ABL Collateral Agent or any such ABL Creditors. This authorization is coupled with an interest and is irrevocable until such time as this Agreement is terminated in accordance with its terms.

(d) [RESERVED]

ARTICLE V

OTHER AGREEMENTS

SECTION 5.1 Releases.

(a) ABL Priority Collateral. If, in connection with:

(i) the exercise of the ABL Collateral Agent's remedies in respect of the ABL Priority Collateral provided for in Section 3.1, including any sale, lease, exchange, transfer or other disposition of any such ABL Priority Collateral; or

(ii) any sale, lease, exchange, transfer or other disposition of any ABL Priority Collateral permitted under the terms of the ABL Loan Documents and Term Loan Documents (in each case, as in effect on the date hereof and whether or not an "event of default" under any of such documents has occurred and is continuing),

there occurs the release by the ABL Collateral Agent, acting on its own or at the direction of the Required ABL Creditors, of any of its Liens on any part of the ABL Priority Collateral, or of any Grantor from its obligations under its guaranty of the ABL Obligations, then the Liens, if any, of the Term Collateral Agent, for itself and for the benefit of the Term Creditors and of any other Term Creditor, on such ABL Priority Collateral, and the obligations of such Grantor under its guaranties (if any) of the Term Obligations, shall be automatically, unconditionally and simultaneously released, and the Term Collateral Agent, for itself and on behalf of any such Term Creditors, promptly shall execute and deliver to the ABL Collateral Agent or such Grantor such termination statements, releases and other documents as the ABL Collateral Agent or such Grantor may request to effectively confirm such release; provided, however that if an "event of default" then exists under the Term Credit Agreement and the Discharge of ABL Obligations occurs concurrently with the effectiveness of any such release, the Term Collateral Agent shall be entitled to receive the residual cash or cash equivalents (if any) remaining after giving effect to such release and the Discharge of the ABL Obligations for application in accordance with the provisions of Section 4 hereof.

(b) [RESERVED]

(c) [RESERVED]

(d) Term Priority Collateral. If, in connection with:

(i) the exercise of the Term Collateral Agent's remedies in respect of the Term Priority Collateral provided for in Section 3.1, including any sale, lease, exchange, transfer or other disposition of any such Term Priority Collateral; or

(ii) any sale, lease, exchange, transfer or other disposition of any Term Priority Collateral permitted under the terms of the Term Loan Documents and ABL Loan Documents (in each case, as in effect on the Closing Date and whether or not an "event of default" under any of such documents has occurred and is continuing);

there occurs the release by the Term Collateral Agent, acting on its own or at the direction of the Required Term Creditors, of any of its Liens on any part of the Term Priority Collateral, or of any Grantor from its obligations under its guaranty of the Term Obligations, then the Liens, if any, of the ABL Collateral Agent, for itself and for the benefit

of the ABL Creditors, and of any other ABL Creditor, on such Collateral, and the obligations of such Grantor under its guaranties (if any) of the ABL Obligations, shall be automatically, unconditionally and simultaneously released, and the ABL Collateral Agent, for itself and on behalf of any such ABL Creditors, promptly shall execute and deliver to the Term Collateral Agent or such Grantor such termination statements, releases and other documents as the Term Collateral Agent or such Grantor may request to effectively confirm such release; provided, however that if an "event of default" then exists under the ABL Credit Agreement and the Discharge of Term Obligations occurs concurrently with the effectiveness of any such release, the ABL Collateral Agent shall be entitled to receive the residual cash or cash equivalents (if any) remaining after giving effect to such release and the Discharge of the Term Obligations for application in accordance with the provisions of Section 4 hereof.

(e) [RESERVED]

(f) [RESERVED]

SECTION 5.2 Insurance - ABL Priority Collateral. (a) Unless and until the Discharge of ABL Obligations has occurred, the ABL Collateral Agent (acting at the direction of the Required ABL Creditors) shall have the sole and exclusive right, as between the ABL Collateral Agent and the Term Collateral Agent, to adjust settlement under any insurance policy covering the ABL Priority Collateral in the event of any loss thereunder to the extent relating to the ABL Priority Collateral and to approve any award granted in any condemnation or similar proceeding (or any deed in lieu of condemnation) to the extent relating to the ABL Priority Collateral. Unless and until the Discharge of ABL Obligations has occurred, and subject to the rights of the Grantors under the ABL Security Documents, all proceeds of any such policy and any such award (or any payments with respect to a deed in lieu of condemnation) in respect to the ABL Priority Collateral shall be paid to the ABL Collateral Agent for the benefit of the ABL Creditors pursuant to the terms of the ABL Loan Documents (including, without limitation, for purposes of cash collateralization of ABL Obligations consisting of commitments, letters of credit and ABL Hedge Agreements (to the extent required thereby with notification by the relevant ABL Hedge Provider to the ABL Collateral Agent)) and, after the Discharge of ABL Obligations has occurred, to the Term Collateral Agent for the benefit of the Term Creditors to the extent required under the Term Security Documents, and then, to the extent no Term Obligations are outstanding, to the owner of the subject property, such other Person as may be entitled thereto or as a court of competent jurisdiction may otherwise direct. If either the Term Collateral Agent or any Term Creditors shall, at any time prior to the Discharge of ABL Obligations, receive any proceeds of any such insurance policy or any such award or payment in contravention of this Agreement, it shall pay such proceeds over to the ABL Collateral Agent.

(b) Term Priority Collateral. Unless and until the Discharge of Term Obligations has occurred, the Term Collateral Agent (acting at the direction of the Required Term Creditors) shall have the sole and exclusive right, as between the Term Collateral Agent and the ABL Collateral Agent, to adjust settlement under any insurance policy covering the

Term Priority Collateral in the event of any loss thereunder to the extent relating to the ABL Priority Collateral and to approve any award granted in any condemnation or similar proceeding (or any deed in lieu of condemnation) to the extent relating to the Term Priority Collateral. Unless and until the Discharge of Term Obligations has occurred, and subject to the rights of the Grantors under the Term Security Documents, all proceeds of any such policy and any such award (or any payments with respect to a deed in lieu of condemnation) in respect to the Term Priority Collateral shall be paid to the Term Collateral Agent for the benefit of the Term Creditors pursuant to the terms of the Term Loan Documents (including, without limitation, for purposes of cash collateralization of Term Obligations consisting of commitments and letters of credit) and, after the Discharge of Term Obligations has occurred, to the ABL Collateral Agent for the benefit of the ABL Creditors to the extent required under the ABL Security Documents and then, to the extent no ABL Obligations are outstanding, to the owner of the subject property, such other Person as may be entitled thereto or as a court of competent jurisdiction may otherwise direct. If either the ABL Collateral Agent or any ABL Creditors shall, at any time prior to the Discharge of Term Obligations, receive any proceeds of any such insurance policy or any such award or payment in contravention of this Agreement, it shall pay such proceeds over to the Term Collateral Agent.

SECTION 5.3 Amendments to Credit Documents.

(a) Amendments to ABL Loan Documents. Without the prior written consent the Required Term Lenders), no ABL Loan Document may be amended, supplemented or otherwise modified to the extent such amendment, supplement or modification would (i) increase the then outstanding aggregate principal amount of the loans, letters of credit and reimbursement obligations under the ABL Credit Agreement plus, if any, any undrawn portion of any commitment under the ABL Credit Agreement in excess of the Maximum ABL Principal Amount, (ii) contravene the provisions of this Agreement, (iii) increase the "Applicable Margin" or similar component of the interest or the yield on the loans thereunder by more than 1.5% per annum (exclusive, for the avoidance of doubt, of any (A) increases resulting from application of the pricing grid set forth in the ABL Credit Agreement as of the date hereof or (B) increases of up to 2.0% resulting from the accrual of interest at the default rate), (iv) provide for scheduled dates for payment of principal, interest, premium (if any) or fees which are earlier than such dates under the ABL Credit Agreement, or (v) convert the ABL Credit Agreement to, or refinance the ABL Credit Agreement with, a term loan credit facility or a revolving credit facility the availability of which is not subject to a borrowing base comprised of accounts receivable and inventory.

(b) Amendments to Term Loan Documents. Without the prior written consent of the Required ABL Lenders), no Term Loan Document may be amended, supplemented or otherwise modified to the extent such amendment, supplement or modification would (i) contravene the provisions of this Agreement, (ii) increase the then outstanding aggregate principal amount of the loans under the Term Credit Agreement in excess of the Maximum Term Principal Amount, (iii) increase the "Applicable Margin" or similar component of the interest yield of the loans thereunder by more than 3.0% per annum from the "Applicable Margin" or similar component under the Term Credit Agreement as in effect as of the date hereof (exclusive, for the avoidance of doubt, of (A) increases resulting from application of the pricing grid set forth in the Term Credit Agreement as of the date hereof or (B) increases of up to 2.0% resulting

from the accrual of interest at the default rate) or (iv) provide for scheduled dates for payment of principal, interest, premiums (if any) or fees which are earlier than such dates under the Term Credit Agreement.

SECTION 5.4 Amendments to Security Documents. (a) Amendments to Security Documents.

(i) Without the prior written consent of the ABL Collateral Agent (acting at the direction of the Required ABL Creditors), no Term Security Document may be amended, supplemented or otherwise modified or entered into to the extent such amendment, supplement or modification, or the terms of any new Term Security Document, would contravene the provisions of this Agreement or any ABL Loan Document.

(ii) Without the prior written consent of the Term Collateral Agent (acting at the direction of the Required Term Creditors), no ABL Security Document may be amended, supplemented or otherwise modified or entered into to the extent such amendment, supplement or modification, or the terms of any new ABL Security Document, would contravene the provisions of this Agreement.

(iii) [RESERVED]

(iv) Each Grantor and each ABL Creditor agrees that each ABL Security Document shall include the following language (or language of similar impact):

"Notwithstanding anything herein to the contrary, the lien and security interest granted to the ABL Collateral Agent pursuant to this Agreement and the exercise of any right or remedy by the ABL Collateral Agent hereunder are subject to the provisions of the Intercreditor Agreement, dated as of May 21, 2007 (as amended, restated, supplemented or otherwise modified from time to time in accordance with the- terms thereof, the "Intercreditor Agreement"), by and among Douglas Dynamics Company, L.L.C., Douglas Dynamics Holdings, Inc., Douglas Dynamics Finance Company and Fischer, LLC, the grantors from time to time party thereto, JPMorgan Chase Bank, N.A., as ABL Collateral Agent, and Credit Suisse, Cayman Island Branch, as Term Collateral Agent, and certain other persons party or that may become party thereto from time to time. In the event of any conflict between the terms of the Intercreditor Agreement and this Agreement, the terms of the Intercreditor Agreement shall govern and control."

In addition, the Borrower agrees that each ABL Mortgage covering any Term Priority Collateral shall contain such other language as the Term Collateral Agent may reasonably request to reflect the subordination of such ABL Mortgage to the Term Security Document covering such Collateral.

(v) Each Grantor and each Term Creditor agrees that each Term Security Document shall include the following language (or language of similar impact):

"Notwithstanding anything herein to the contrary, the lien and security interest granted to the Term Collateral Agent pursuant to this Agreement and the exercise of any right or remedy by the Term Collateral Agent hereunder are subject to the provisions of the Intercreditor Agreement, dated as of May 21, 2007 (as amended, restated, supplemented or otherwise modified from time to time in accordance with the- terms thereof, the "Intercreditor Agreement"), by and among Douglas Dynamics Company, L.L.C., Douglas Dynamics Holdings, Inc., Douglas Dynamics Finance Company and Fischer, LLC, the grantors from time to time party thereto, JPMorgan Chase Bank, N.A., as ABL Collateral Agent, and Credit Suisse, Cayman Island Branch, as Term Collateral Agent, and certain other persons party or that may become party thereto from time to time. In the event of any conflict between the terms of the Intercreditor Agreement and this Agreement, the terms of the Intercreditor Agreement shall govern and control."

(b) Amendment to ABL Priority Collateral Security Documents. With respect to the ABL Priority Collateral, in the event that, at any time prior to the Discharge of ABL Obligations, the ABL Collateral Agent or the ABL Creditors and the relevant Grantor(s) enter into any amendment, waiver or consent in respect of any of the ABL Security Documents for the purpose of adding to, or deleting from, or waiving or consenting to any departures from any provisions of, any ABL Security Document or changing in any manner the rights of the ABL Collateral Agent, the ABL Creditors, the Borrower or any other Grantor thereunder, then such amendment, waiver or consent shall apply automatically to any comparable provision of the Comparable Term Security Document without the consent of the Term Collateral Agent or the Term Creditors and without any action by the Term Collateral Agent, the Borrower or any other Grantor, provided, that (A) no such amendment, waiver or consent shall have the effect of (i) removing assets subject to the Lien of the Term Security Documents, except to the extent that a release of such Lien is permitted by Section 5.1 of this Agreement, (ii) imposing additional duties on the Term Collateral Agent without its consent, or (iii) permitting other liens on the ABL Priority Collateral not permitted under the terms of the Term Loan Documents or Article VI hereof and (B) notice of such amendment, waiver or consent shall have been given to the Term Collateral Agent (although the failure to give any such notice shall in no way affect the effectiveness of any such amendment, waiver or consent or impair or affect the Term Collateral Agent's or any Term Creditor's obligations to the ABL Collateral Agent and the ABL Lien Creditors).

(c) Amendment to Term Priority Collateral Security Documents. With respect to the Term Priority Collateral, in the event that, at any time prior to the Discharge of Term Obligations, the Term Collateral Agent or the Term Creditors and the relevant Grantor(s) enter into any amendment, waiver or consent in respect of any of the Term Security Documents for the purpose of adding to, or deleting from, or waiving or consenting to any departures from any provisions of, any Term Security Document or changing in any manner the rights of the Term Collateral Agent, the Term Creditors, the Borrower or any other Grantor thereunder, then such amendment, waiver or consent shall apply automatically to any comparable provision of the Comparable ABL Security Document without the consent of the ABL Collateral Agent or the ABL Creditors and without any action by the ABL Collateral Agent, the Borrower or any other Grantor, provided, that (A) no such amendment, waiver or consent shall have the effect of (i) removing assets subject to the ABL Security Documents, except to the extent that a release of

such Lien is permitted by Section 5.1 of this Agreement, (ii) imposing additional duties on the ABL Collateral Agent without its consent, or (iii) permitting other liens on the Term Priority Collateral not permitted under the terms of the ABL Loan Documents, or Article VI hereof and (B) notice of such amendment, waiver or consent shall have been given to the ABL Collateral Agent (although the failure to give any such notice shall in no way affect the effectiveness of any such amendment, waiver or consent or impair or affect the ABL Collateral Agent's or any ABL Creditor's obligations to the Term Collateral Agent and the Term Creditors).

SECTION 5.5 Rights As Unsecured Creditors. Except as otherwise set forth in this Agreement, the ABL Collateral Agent, the ABL Creditors, the Term Collateral Agent and the Term Creditors may exercise rights and remedies as unsecured creditors against Holdings, Borrower or any Grantor that has guaranteed (x) the ABL Obligations in accordance with the terms of the ABL Loan Documents and applicable law and/or (y) the Term Obligations in accordance with the terms of the Term Loan Documents and applicable law. Except as otherwise set forth in this Agreement nothing in this Agreement shall prohibit the receipt by (x) the ABL Collateral Agent or any ABL Creditors of the required payments of interest and principal on the ABL Obligations or (y) the Term Collateral Agent or any Term Creditors of the required payments of interest and principal on the Term Obligations so long as such receipt is not the direct or indirect result of the exercise by the ABL Collateral Agent or any ABL Lien Creditor or the Term Collateral Agent or any Term Creditor of rights or remedies as a secured creditor (including set-off) or enforcement of any Lien held by any of them. In the event the Term Collateral Agent or any Term Creditor becomes a judgment lien creditor in respect of ABL Priority Collateral as a result of its enforcement of its rights as an unsecured creditor, such judgment lien shall be subordinated to the Liens securing ABL Obligations on the same basis as the other Liens securing the Term Obligations are so subordinated to the ABL Obligations under this Agreement. Nothing in this Agreement impairs or otherwise adversely affects any rights or remedies the ABL Collateral Agent or the ABL Creditors may have with respect to the ABL Priority Collateral. In the event the ABL Collateral Agent or any ABL Creditor becomes a judgment lien creditor in respect of Term Priority Collateral as a result of its enforcement of its rights as an unsecured creditor, such judgment lien shall be subordinated to the Liens securing Term Obligations on the same basis as the other Liens securing the ABL Obligations, as the case may be, are so subordinated to the Term Obligations under this Agreement. Nothing in this Agreement impairs or otherwise adversely affects any rights or remedies the Term Collateral Agent or the Term Creditors may have with respect to the Term Priority Collateral.

SECTION 5.6 Bailee for Perfection. (a) ABL Priority Collateral—Perfection of Security Interest. The ABL Collateral Agent agrees to acquire and acknowledges it holds any ABL Priority Collateral actually in its possession or control (or in the possession or control of its agents or bailees) on behalf of itself and the Term Collateral Agent and any assignee solely for the purpose of perfecting the security interest granted under the ABL Loan Documents and the Term Loan Documents, subject to the terms and conditions of this Section 5.6.

(b) ABL Priority Collateral — Exclusive Treatment. Until the Discharge of ABL Obligations has occurred, the ABL Collateral Agent shall be entitled to deal with the ABL Priority Collateral in accordance with the terms of the ABL Loan Documents as if the Liens of the Term Collateral Agent under the Term Security Documents did not exist. The rights of the Term Collateral Agent shall at all times be subject to the terms of this Agreement and, with

respect to the ABL Priority Collateral, to the ABL Collateral Agent's rights under the ABL Loan Documents.

(c) ABL Priority Collateral — Obligations of Collateral Agents. (i) The ABL Collateral Agent shall have no obligation whatsoever to the ABL Creditors, the Term Collateral Agent or any Term Creditor to assure that the ABL Priority Collateral is genuine or owned by any of the Grantors or to preserve any rights or benefits of any Person except as expressly set forth in this Section 5.6. The duties or responsibilities of the ABL Collateral Agent under this Section 5.6 shall be limited solely to holding any ABL Priority Collateral actually in its possession or control as bailee in accordance with this Section 5.6.

(ii) After the Discharge of ABL Obligations has occurred, the Term Collateral Agent shall have no obligations whatsoever to the Term Creditors to assure that the ABL Priority Collateral is genuine or owned by any of the Grantors or to preserve any rights or benefits of any Person except as expressly set forth in this Section 5.6. The duties or responsibilities of the Term Collateral Agent under this Section 5.6 shall be limited solely to holding any ABL Priority Collateral actually in its possession or control as bailee in accordance with this Section 5.6.

(d) ABL Priority Collateral — Delivery of Remaining ABL Priority Collateral. Upon the Discharge of ABL Obligations, the ABL Collateral Agent shall deliver the remaining ABL Priority Collateral (if any) (or proceeds thereof) in its possession, together with any necessary endorsements, (i) to the Term Collateral Agent, unless the Discharge of Term Obligations has occurred and (ii) if preceding clause (i) does not apply, to the relevant Grantor (in each case, so as to allow such Person to obtain control of such ABL Priority Collateral). The ABL Collateral Agent further agrees to take all other action reasonably requested by such Person in connection with such Person's obtaining a first-priority interest in the ABL Priority Collateral or as a court of competent jurisdiction may otherwise direct.

(e) Term Priority Collateral — Perfection of Security Interest. The Term Collateral Agent agrees to acquire and acknowledges it holds any Term Priority Collateral actually in its possession or control (or in the possession or control of its agents or bailees) on behalf of itself and any assignee and the ABL Collateral Agent and any assignee solely for the purpose of perfecting the security interest granted under the Term Loan Documents and the ABL Loan Documents, subject to the terms and conditions of this Section 5.6.

(f) Term Priority Collateral — Exclusive Treatment. Until the Discharge of Term Obligations has occurred, the Term Collateral Agent shall be entitled to deal with the Term Priority Collateral in accordance with the terms of the Term Loan Documents as if the Liens of the ABL Collateral Agent under the ABL Security Documents did not exist. The rights of the ABL Collateral Agent shall at all times be subject to the terms of this Agreement and, with respect to the Term Priority Collateral, to the Term Collateral Agent's rights under the Term Loan Documents.

(g) Term Priority Collateral—Obligations of Collateral Agents. (i) The Term Collateral Agent shall have no obligation whatsoever to the Term Creditors, the ABL Collateral Agent or any ABL Creditor to assure that the Term Priority Collateral is genuine or owned by

any of the Grantors or to preserve any rights or benefits of any Person except as expressly set forth in this Section 5.6. The duties or responsibilities of the Term Collateral Agent under this Section 5.6 shall be limited solely to holding any Pledged Collateral and Term Priority Collateral actually in its possession or control as bailee in accordance with this Section 5.6.

(ii) After the Discharge of Term Obligations, the ABL Collateral Agent shall have no obligations whatsoever to the ABL Creditors to assure that the Term Priority Collateral is genuine or owned by any of the Grantors or to preserve any rights or benefits of any Person except as expressly set forth in this Section 5.6. The duties or responsibilities of the ABL Collateral Agent under this Section 5.6 shall be limited solely to holding any Term Priority Collateral actually in its possession or control as bailee in accordance with this Section 5.6.

(h) Term Priority Collateral — Delivery of Remaining Collateral. Upon the Discharge of Term Obligations, the Term Collateral Agent shall deliver the remaining Term Priority Collateral (if any) (or proceeds thereof) in its possession, together with any necessary endorsements, (i) to the ABL Collateral Agent, unless the Discharge of ABL Obligations has occurred and (ii) if preceding clause (i) does not apply, to the relevant Grantor (in each case, so as to allow such Person to obtain control of such Term Priority Collateral). The Term Collateral Agent further agrees to take all other action reasonably requested by such Person in connection with such Person's obtaining a first-priority interest in the Term Priority Collateral or as a court of competent jurisdiction may otherwise direct.

(i) No Fiduciary Relationships. No Collateral Agent acting pursuant to this Section 5.6 shall have by reason of the ABL Security Documents, the Term Security Documents, this Agreement or any other document a fiduciary relationship in respect of any other Collateral Agent, any ABL Creditor or any Term Creditor.

SECTION 5.7 When Discharge of Obligations Deemed to Not Have Occurred. (a) ABL Priority Collateral. If the Borrower enters into any Refinancing of any ABL Loan Document evidencing an ABL Obligation, then any Discharge of ABL Obligations effected thereby shall automatically be deemed not to have occurred for all purposes of this Agreement, and the obligations under such Refinancing ABL Loan Document shall automatically be treated as ABL Obligations for all purposes of this Agreement, including for purposes of the Lien priorities and rights in respect of the ABL Priority Collateral and the Term Priority Collateral set forth herein, and the collateral agent under such ABL Loan Documents shall be the ABL Collateral Agent for all purposes of this Agreement. Upon receipt of a notice stating that the Borrower has entered into a new ABL Loan Document (which notice shall include the identity of the new agent, such agent, the "New ABL Agent"), the Term Collateral Agent shall promptly enter into such documents and agreements (including amendments or supplements to this Agreement) as the Borrower or such New ABL Agent may reasonably request in order to provide to the New ABL Agent the rights contemplated hereby, in each case consistent in all material respects with the terms of this Agreement. In addition, a Discharge of ABL Obligations shall be deemed not to have occurred in the circumstances described in Section 6.5.

(b) Term Priority Collateral. If the Borrower enters into any Refinancing of any Term Loan Document evidencing a Term Obligation, then any Discharge of Term

Obligations shall automatically be deemed not to have occurred for all purposes of this Agreement, and the obligations under such Refinancing Term Loan Document shall automatically be treated as Term Obligations for all purposes of this Agreement, including for purposes of the Lien priorities and rights in respect of the ABL Priority Collateral and the Term Priority Collateral set forth herein, and the collateral agent under such Term Loan Documents shall be the Term Collateral Agent for all purposes of this Agreement. Upon receipt of a notice stating that the Borrower has entered into a new Term Loan Document in accordance with the foregoing requirements (which notice shall include the identity of the new agent, such agent, the "New Term Agent"), the ABL Collateral Agent shall promptly enter into such documents and agreements (including amendments or supplements to this Agreement) as the Borrower or such New Term Agent may reasonably request in order to provide to the New Term Agent the rights contemplated hereby, in each case consistent in all material respects with the terms of this Agreement. In addition, a Discharge of Term Obligations shall be deemed not to have occurred in the circumstances described in Section 6.5.

SECTION 5.8 Option to Purchase. (a) Option to Purchase of Term Creditors. If all of the ABL Obligations shall have been accelerated or following the non-payment of the ABL Obligations after the Revolving Termination Date (as such term is defined in the ABL Credit Agreement), the Term Creditors shall have the option at any time upon at least five (5) Business Days' prior written notice by the Term Administrative Agent to the ABL Administrative Agent (with copies to the Borrower) to purchase all, and not less than all, of the ABL Obligations from the ABL Administrative Agent and the ABL Creditors. Such notice from the Term Administrative Agent to

the ABL Administrative Agent shall be irrevocable.

(b) Option to Purchase of Term Creditors — Sale Without Consent. On the date specified by the Term Administrative Agent in the notice described in Section 5.8(a) (which shall not be less than five (5) Business Days, nor more than ten (10) Business Days, after the receipt by the ABL Administrative Agent of the notice from the Term Administrative Agent of the election by the Term Creditors to exercise such option), the ABL Administrative Agent and the ABL Creditors shall sell to the Term Creditors exercising such option, and such Term Creditors shall purchase from the ABL Administrative Agent and the ABL Creditors, the ABL Obligations without the prior written consent of the Borrower or any other Grantor.

(c) Option to Purchase of Term Creditors — Procedure. Upon the date of such purchase and sale, the Term Creditors that have exercised such option shall, pursuant to documentation in form and substance reasonably satisfactory to the ABL Administrative Agent, (i) pay to the ABL Creditors as the purchase price therefor the full amount of all the ABL Obligations then outstanding and unpaid (including principal, reimbursement obligations in respect of, if any, letters of credit, the credit exposure of the ABL Creditors under ABL Hedge Agreements, interest, fees and expenses, including reasonable attorneys' fees and legal expenses) at par, (ii) cash collateralize any letters of credit outstanding under the ABL Credit Agreement in an amount reasonably satisfactory to the ABL Agent but in no event greater than 103% of the aggregate undrawn face amount thereof, and (iii) agree to reimburse the ABL Administrative Agent and the ABL Creditors for any loss, cost, damage or expense (including reasonable attorneys' fees and legal expenses) in connection with any commissions, fees, costs or expenses related to any issued and outstanding letters of credit as described above and any checks or other payments provisionally credited to the ABL Obligations, and/or as to which the ABL

Administrative Agent or any ABL Creditor has not yet received final payment. Such purchase price and cash collateral shall be remitted by wire transfer in federal funds to such bank account of the ABL Administrative Agent for the ratable account of the ABL Administrative Agent and the ABL Creditors in New York, New York, as the ABL Administrative Agent may designate in writing to the Term Administrative Agent for such purpose. Interest shall be calculated to but excluding the Business Day on which such purchase and sale shall occur if the amounts so paid by the Term Creditors that have exercised such option to the bank account designated by the ABL Administrative Agent are received in such bank account prior to 1:00 p.m., New York City time and interest shall be calculated to and including such Business Day if the amounts so paid by such Term Creditors to the bank account designated by the ABL Administrative Agent are received in such bank account later than 1:00 p.m., New York City time on such Business Day.

(d) Option to Purchase of Term Creditors — Without Recourse. Such purchase shall be expressly made without recourse, representation or warranty of any kind by the ABL Administrative Agent or any ABL Creditors as to the ABL Obligations owed to such Person or otherwise, except that each such Person shall represent and warrant: (i) the amount of the ABL Obligations being sold by it, (ii) that such Person has not created any Lien on any ABL Obligation being sold by it and (iii) that such Person has the right to assign ABL Obligations being assigned by it and its assignment is duly authorized.

(e) Option to Purchase of Term Creditors — Foreclosure. The ABL Administrative Agent agrees that prior to foreclosing upon all or a material portion of the ABL Priority Collateral, it will provide the Term Administrative Agent with at least five (5) days' notice of its intent to commence such foreclosure. If the Term Administrative Agent shall give the ABL Administrative Agent written notice of any Term Creditor's intention to exercise the purchase option provided under this Section 5.8 prior to the foreclosure by the ABL Administrative Agent on any ABL Priority Collateral, the ABL Administrative Agent shall not continue such foreclosure action or initiate any other action to sell or otherwise realize upon any of the ABL Priority Collateral so long as the purchase and sale with respect to the ABL Obligations provided for herein shall have closed within ten (10) Business Days thereafter and the ABL Administrative Agent and the ABL Creditors shall have received payment in full of the ABL Obligations as provided for herein within such ten (10) Business Day period.

SECTION 5.9 Entry Upon Premises by the ABL Collateral Agent and the ABL Creditors. (a) ABL Priority Collateral — Cooperation in Enforcement Action. If the ABL Collateral Agent takes any enforcement action with respect to the ABL Priority Collateral, the Term Secured Parties (i) shall cooperate with the ABL Collateral Agent (at the sole cost and expense of the ABL Collateral Agent and subject to the condition that the Term Secured Parties shall have no obligation or duty to take any action or refrain from taking any action that could reasonably be expected to result in the incurrence of any liability or damage to the Term Secured Parties) in its efforts to enforce its security interest in the ABL Priority Collateral and to finish any work-in-process and assemble the ABL Priority Collateral, (ii) shall not take any action designed or intended to hinder or restrict in any respect the ABL Collateral Agent from enforcing its security interest in the ABL Priority Collateral or from finishing any work-in-process or assembling the ABL Priority Collateral, and (iii) shall permit the ABL Collateral Agent, its employees, agents, advisers and representatives, at the sole cost and expense of the ABL Secured Parties and upon reasonable advance notice, to enter upon and use the Term Priority Collateral

(including (x) equipment, processors, computers and other machinery related to the storage or processing of records, documents or files and (y) intellectual property), for a period not to exceed 180 days after the taking of such enforcement action, for purposes of (A) assembling and storing the ABL Priority Collateral and completing the processing of and turning into finished goods of any ABL Priority Collateral consisting of work-in-process, (B) selling any or all of the ABL Priority Collateral located on such Term Priority Collateral, whether in bulk, in lots or to customers in the ordinary course of business or otherwise, (C) removing any or all of the ABL Priority Collateral located on such Term Priority Collateral, or (D) taking reasonable actions to protect, secure, and otherwise enforce the rights of the ABL Secured Parties in and to the ABL Priority Collateral, and the Term Secured Parties hereby irrevocably grant to the ABL Collateral Agent a non-exclusive license or other right to use, for such time and without charge, such intellectual property, equipment, processors, computers and other machinery as it pertains to the ABL Priority Collateral in finishing, assembling, advertising for sale and/or selling any ABL Priority Collateral; provided, however, that nothing contained in this Agreement shall restrict the rights of the ABL Collateral Agent from selling, assigning or otherwise transferring any ABL Priority Collateral prior to the expiration of such 180-day period if the purchaser, assignee or transferee thereof agrees to be bound by the provisions of this Section 5.9. If any stay or other order prohibiting the exercise of remedies with respect to the ABL Priority Collateral has been entered by a court of competent jurisdiction, such 180-day period shall be tolled during the pendency of any such stay or other order. If the ABL Collateral Agent conducts a public auction or private sale of the ABL Priority Collateral at any of the real property included within the ABL Priority Collateral, the ABL Collateral Agent shall provide the Term Collateral Agent with reasonable notice and use reasonable efforts to hold such auction or sale in a manner which would not unduly disrupt the Term Collateral Agent's use of such real property.

(b) ABL Priority Collateral—Responsibilities of ABL Secured Parties with respect to Enforcement Action. During the period of actual occupation, use or control by the ABL Secured Parties or their agents or representatives of any Term Priority Collateral, the ABL Secured Parties shall (i) be responsible for the ordinary course third party expenses related thereto, including costs with respect to heat, light, electricity, water and real property taxes with respect to that portion of any premises so used or occupied, and (ii) be obligated to repair at their expense any physical damage to such Term Priority Collateral or other assets or property resulting from such occupancy, use or control, and to leave such Term Priority Collateral or other assets or property in substantially the same condition as it was at the commencement of such occupancy, use or control, ordinary wear and tear excepted. The ABL Secured Parties jointly and severally agree to pay, indemnify and hold the Term Collateral Agent and their respective officers, directors, employees and agents harmless from and against any liability, cost, expense, loss or damages, including legal fees and expenses, resulting from the gross negligence or willful misconduct of the ABL Collateral Agent or any of its agents, representatives or invitees in its or their operation of such facilities. Notwithstanding the foregoing, in no event shall the ABL Secured Parties have any liability to the Term Secured Parties pursuant to this Section 5.9 as a result of any condition (including any environmental condition, claim or liability) on or with respect to the Term Priority Collateral existing prior to the date of the exercise by the ABL Secured Parties of their rights under this Section 5.9 and the ABL Secured Parties shall have no duty or liability to maintain the Term Priority Collateral in a condition or manner better than that in which it was maintained prior to the use thereof by the ABL Secured Parties, or for any diminution in the value of the Term Priority Collateral that results solely from ordinary wear

and tear resulting from the use of the Term Priority Collateral by the ABL Secured Parties in the manner and for the time periods specified under this Section 5.9. Without limiting the rights granted in this paragraph, the ABL Secured Parties shall cooperate with the Term Secured Parties in connection with any efforts made by the Term Secured Parties to sell the Term Priority Collateral.

SECTION 5.10 Rights under Permits and Licenses. The Term Collateral Agent agrees that if the ABL Collateral Agent shall require rights available under any permit or license controlled by the Term Collateral Agent in order to realize on any ABL Priority Collateral, the Term Collateral Agent shall take all such actions as shall be available to it (at the sole expense of the Grantors), consistent with applicable law and reasonably requested by the ABL Collateral Agent to make such rights available to the ABL Collateral Agent, subject to the Liens on the Term Priority Collateral created under the Term Security Documents to secure the Term Obligations. The ABL Collateral Agent agrees that if the Term Collateral Agent shall require rights available under any permit or license controlled by the ABL Collateral Agent in order to realize on any Term Priority Collateral, the ABL Collateral Agent shall take all such actions as shall be available to it (at the sole expense of the Grantors), consistent with applicable law and reasonably requested by the Term Collateral Agent to make such rights available to the Term Collateral Agent, subject to the Liens on the ABL Priority Collateral created under the ABL Security Documents to secure the ABL Obligations.

ARTICLE VI

INSOLVENCY OR LIQUIDATION PROCEEDINGS

SECTION 6.1 Finance and Sale Issues. (a) ABL Creditor Post-Petition Financing. (i) If the Borrower or any other Grantor shall be subject to any Insolvency or Liquidation Proceeding and the ABL Collateral Agent (acting at the direction of the Required ABL Creditors) shall desire to permit the Borrower or any other Grantor to obtain financing (including on a priming basis), from the ABL Creditors under Section 362, 363 or 364 of the Bankruptcy Code or debtor-in-possession financing under any other Bankruptcy Law (each, an "ABL Creditor Post-Petition Financing"), and provided that (A) the aggregate amount of ABL Obligations outstanding as of the commencement of the Insolvency or Liquidation Proceeding is at least $25,000,000 and (B) the Exposure Amount does not exceed the Maximum Exposure Amount at any time during the pendency of the Insolvency or Liquidation Proceeding, then, the Term Collateral Agent, on behalf of itself and the Term Creditors, and each other Term Creditor (by its acceptance of the benefits of the Term Loan Documents), each agree that it will not oppose or raise any objection to or contest (or join with or support any third party opposing, objecting to or contesting), on any basis applicable solely to a secured creditor in such Insolvency or Liquidation Proceeding, such use or provision of ABL Creditor Post-Petition Financing and will not request adequate protection or any other relief in to which a secured creditor may otherwise be entitled in connection therewith (except as expressly agreed in writing by the ABL Collateral Agent or to the extent permitted by Section 6.3) and, to the extent the Liens securing the ABL Obligations are subordinated to or pari passu with such ABL Creditor Post-Petition Financing, its Liens on the ABL Priority Collateral shall be deemed to be subordinated, without any further action on the part of any Person, to the Liens securing such

ABL Creditor Post-Petition Financing (and all Obligations relating thereto), and the Liens securing the Term Obligations shall have the same priority with respect to the ABL Priority Collateral relative to the Liens securing the ABL Obligations as if such ABL Creditor Post-Petition Financing had not occurred and the Liens on the Term Priority Collateral shall be deemed to be subordinated, without any further action on the part of any Person, to the Liens securing such ABL Creditor Post-Petition Financing (and all Obligations relating thereto). Furthermore, and notwithstanding anything to the contrary contained above in this Section 6.1(a), the Term Collateral Agent and the Term Creditors may object for any reason and on any basis (whether assertable by, or applicable to, a secured or general unsecured creditor, and including without limitation, any objection based on the lack of adequate protection) to any ABL Creditor Post-Petition Financing which (A) causes the Exposure Amount to exceed the Maximum Exposure Amount, or (B) is made or permitted to be made at any time that the Exposure Amount exceeds the Maximum Exposure Amount. Notwithstanding anything herein to the contrary, and without limiting the provisions of the immediately preceding sentence, this Section 6.1(a)(i) does not prevent the Term Creditors from (i) objecting to any ABL Post-Petition Financing that purports to govern or control the provisions or content of a plan of reorganization (other than providing for satisfaction in full in cash of the ABL Creditor Post-Petition Financing on or prior to the effective date of such plan of reorganization) or (ii) proposing any other post-petition financing to the Borrower or the Bankruptcy Court.

(ii) The Term Collateral Agent, on behalf of itself and the other Term Creditors, and each other Term Creditor (by its acceptance of the benefits of the Term Loan Documents), each agree that solely in its capacity as a secured creditor and not as an unsecured creditor, it will consent to and raise no objection to, oppose or contest (or join with or support any third party opposing, objecting to or contesting), a sale or other disposition of any ABL Priority Collateral in the context of an Insolvency or Liquidation Proceeding free and clear of its Liens or other claims under Section 363 of the Bankruptcy Code or any other court approved sale pursuant to any other Insolvency and Liquidation Proceeding if the ABL Creditors have consented to such sale or disposition of such assets; provided, that (i) the net cash proceeds from the sale or disposition are applied first to the ABL Obligations and (ii) any such sale or disposition must be approved by the bankruptcy court (or other court) with jurisdiction over the sale (the "Bankruptcy Court") by an order that: (a) contains a specific finding that the sale or disposition being approved is commercially reasonable; and (b) provides that any consideration received in connection with such sale or disposition that exceeds the amount of the ABL Obligations shall be used to satisfy the Term Obligations or shall remain encumbered by the Term Obligations with the same priority and subject to the same limitations set forth herein with respect to their Liens on the ABL Priority Collateral.

(b) Term Creditor Post-Petition Financing. (i) If the Borrower or any other Grantor shall be subject to any Insolvency or Liquidation Proceeding and the Term Collateral Agent (acting at the direction of the Required Term Creditors) shall desire to permit the Borrower or any other Grantor to obtain financing (including on a priming basis), from the Term Creditors under Section 362, 363 or 364 of the Bankruptcy Code or debtor-in-possession financing under any other Bankruptcy Law (each, a "Term Creditor Post-Petition Financing"), and provided that (A) the aggregate amount of ABL Obligations outstanding as of the

commencement of the Insolvency or Liquidation Proceeding is less than $25,000,000 and (B) the Exposure Amount does not exceed the Maximum Exposure Amount at any time during the pendency of the Insolvency or Liquidation Proceeding, then the ABL Collateral Agent, on behalf of itself and the ABL Creditors, and each other ABL Creditor (by its acceptance of the benefits of the ABL Loan Documents), each agree that it will not oppose or raise any objection to or contest (or join with or support any third party opposing, objecting to or contesting), on any basis applicable solely to a secured creditor in such Insolvency or Liquidation Proceeding, such use or provision of Term Creditor Post-Petition Financing and, to the extent the Liens securing the Term Obligations are subordinated to or pari passu with such Term Creditor Post-Petition Financing, its Liens on the Term Priority Collateral shall be deemed to be subordinated, without any further action on the part of any Person, to the Liens securing such Term Creditor Post-Petition Financing (and all Obligations relating thereto). Furthermore, and notwithstanding anything to the contrary contained above in this Section 6.1(b), the ABL Collateral Agent and the ABL Creditors may object for any reason and on any basis (whether assertable by, or applicable to, a secured or general unsecured creditor, and including, without limitation, any objection based on the lack of adequate protection) to any Term Creditor Post-Petition Financing which (A) causes the Exposure Amount to exceed the Maximum Exposure Amount or (B) is made or permitted to be made at any time that the Exposure Amount exceeds the Maximum Exposure Amount. Notwithstanding anything herein to the contrary, and without limiting the provisions of the immediately preceding sentence, this Section 6.1(b)(i) does not prevent the ABL Creditors from (i) objecting to any Term Post-Petition Financing that purports to govern or control the provisions or content of a plan of reorganization (other than providing for satisfaction in full in cash of the Term Creditor Post-Petition Financing on or prior to the effective date of such plan of reorganization) or (ii) proposing any other post-petition financing to the Borrower or the Bankruptcy Court.

(ii) The ABL Collateral Agent, on behalf of itself and the other ABL Creditors, and each other ABL Creditor (by its acceptance of the benefits of the ABL Loan Documents), each agree that solely in its capacity as a secured creditor and not as an unsecured creditor, it will consent to and raise no objection to, oppose or contest (or join with or support any third party opposing, objecting to or contesting), a sale or other disposition of any Term Priority Collateral in the context of an Insolvency or Liquidation Proceeding free and clear of its Liens or other claims under Section 363 of the Bankruptcy Code or any court approved sale pursuant to any other Insolvency or Liquidation Proceeding if the Term Creditors have consented to such sale or disposition of such assets; provided that (i) the net cash proceeds from the sale or disposition are applied first to the Term Obligations and (ii) any such sale or disposition must be approved by the Bankruptcy Court with jurisdiction over the sale by an order that: (a) contains a specific finding that the sale or disposition being approved is commercially reasonable; and (b) provides that any consideration received in connection with such sale or disposition that exceeds the amount of the Term Obligations shall be used to satisfy the ABL Obligations, or shall remain encumbered by the ABL Obligations, with the same priority and subject to the same limitations set forth herein with respect to their Liens on the Collateral.

SECTION 6.2 Relief from the Automatic Stay.

(a) ABL Priority Collateral. Until the Discharge of ABL Obligations has occurred, the Term Collateral Agent, on behalf of itself and the Term Creditors, and each other Term Creditor (by its acceptance of the benefits of the Term Loan Documents) agree that none of them shall seek relief, pursuant to Section 362(d) of the Bankruptcy Code or otherwise, from the automatic stay of Section 362(a) of the Bankruptcy Code or from any other stay in any Insolvency or Liquidation Proceeding in respect of the ABL Priority Collateral, without the prior written consent of the ABL Collateral Agent.

(b) Term Priority Collateral. Until the Discharge of Term Obligations has occurred, the ABL Collateral Agent, on behalf of itself and the ABL Creditors, and each other ABL Creditor (by its acceptance of the benefits of the ABL Loan Documents), agree that none of them shall seek relief, pursuant to Section 362(d) of the Bankruptcy Code or otherwise, from the automatic stay of Section 362(a) of the Bankruptcy Code or from any other stay in any Insolvency or Liquidation Proceeding in respect of the Term Priority Collateral, without the prior written consent of the Term Collateral Agent.

SECTION 6.3 Adequate Protection. (a) ABL Priority Collateral. (i) The Term Collateral Agent, on behalf of itself and the Term Creditors, and each other Term Creditor (by its acceptance of the benefits of the Term Loan Documents) each agree that, until the Discharge of ABL Obligations has occurred or the termination of the Liens on the ABL Priority Collateral of the ABL Collateral Agent, on behalf of the ABL Creditors, has occurred, with respect to the ABL Priority Collateral, none of them shall oppose, object to or contest (or join with or support any third party opposing, objecting to or contesting) (a) any request by the ABL Collateral Agent or the ABL Creditors for adequate protection in any Insolvency or Liquidation Proceeding (or any granting of such request) or (b) any objection by the ABL Collateral Agent or the ABL Creditors to any motion, relief, action or proceeding based on the ABL Collateral Agent or the ABL Creditors claiming a lack of adequate protection.

(ii) [RESERVED]

(iii) Except as set forth in this Article VI, the Term Collateral Agent and the Term Creditors shall not be limited from seeking adequate protection with respect to their rights in the ABL Priority Collateral in an Insolvency or Liquidation Proceeding (including adequate protection in the form of cash payments of interest or otherwise).

(b) Term Priority Collateral. (i) The ABL Collateral Agent, on behalf of itself and the ABL Creditors, and each other ABL Creditor (by its acceptance of the benefits of the ABL Loan Documents), each agree that, until the Discharge of Term Obligations has occurred or the termination of the Liens on the Term Priority Collateral of the Term Collateral Agent, on behalf of the Term Creditors, has occurred, with respect to the Term Priority Collateral, none of them shall oppose, object to or contest (or join with or support any third party opposing, objecting to or contesting) (a) any request by the Term Collateral Agent or the Term Creditors for adequate protection in any Insolvency or Liquidation Proceeding (or any granting of such request) or (b) any objection by the Term Collateral Agent or the Term Creditors to any motion, relief, action or proceeding based on the Term Collateral Agent or the Term Creditors claiming a lack of adequate protection.

(ii) [RESERVED]

(iii) Except as set forth in this Article VI, the ABL Collateral Agent and the ABL Creditors shall not be limited from seeking adequate protection with respect to their rights in the Term Priority Collateral in an Insolvency or Liquidation Proceeding (including adequate protection in the form of cash payments of interest or otherwise).

SECTION 6.4 No Waiver; Voting Rights. (a) ABL Priority Collateral. (i) Nothing contained herein shall prohibit or in any way limit the ABL Collateral Agent or any ABL Creditor from objecting on any basis in any Insolvency or Liquidation Proceeding or otherwise to any action taken with respect to the ABL Priority Collateral by the Term Collateral Agent or any Term Creditor, including the seeking by the Term Collateral Agent or any Term Creditor of adequate protection or the assertion by the Term Collateral Agent or any Term Creditor of any of its rights and remedies under the Term Loan Documents or otherwise. In any Insolvency or Liquidation Proceeding, neither the Term Collateral Agent nor any other Term Creditor shall propose or support any plan of reorganization, plan or arrangement or disclosure statement, or join with or support any third party in doing so, to the extent the terms of such plan or disclosure statement are inconsistent with the terms of this Agreement as to the treatment of ABL Priority Collateral.

(b) Term Priority Collateral. (i) Nothing contained herein shall prohibit or in any way limit the Term Collateral Agent or any Term Creditor from objecting on any basis in any Insolvency or Liquidation Proceeding or otherwise to any action taken with respect to the Term Priority Collateral by the ABL Collateral Agent or any ABL Creditor, including the seeking by the ABL Collateral Agent or any ABL Creditor of adequate protection or the assertion by the ABL Collateral Agent or any ABL Creditor of any of its rights and remedies under the ABL Loan Documents or otherwise. In any Insolvency or Liquidation Proceeding, neither the ABL Collateral Agent nor any other ABL Creditor shall propose or support any plan of reorganization, plan of arrangement or disclosure statement, or join with or support any third party in doing so, to the extent the terms of such plan or disclosure statement are inconsistent with the terms of this Agreement as to the treatment of Term Priority Collateral.

SECTION 6.5 Preference Issues. (a) Reinstatement of ABL Obligations. If any ABL Creditor is required in any Insolvency or Liquidation Proceeding or otherwise to turn over or otherwise pay to the estate of the Borrower or any other Grantor any amount (an "ABL Recovery"), then the ABL Obligations shall be reinstated to the extent of such ABL Recovery and the ABL Creditors shall be entitled to a reinstatement of ABL Obligations with respect to all such recovered amounts. In such event, any Discharge of ABL Obligations for all purposes of this Agreement shall be deemed to have not occurred (unless and until same subsequently occurs with respect to the ABL Obligations after giving effect to the provisions to this Section 6.5(a)). If this Agreement shall have been terminated prior to such ABL Recovery, this Agreement shall be reinstated in full force and effect (and any prior Discharge of ABL Obligations shall be deemed not to have occurred), and such prior termination shall not diminish, release, discharge, impair or otherwise affect the obligations of the parties hereto from such date of reinstatement. Any amounts received by the Term Collateral Agent or any Term Creditor on account of the Term Obligations from proceeds of ABL Priority Collateral, after the termination of this

Agreement (or any prior Discharge of ABL Obligations) shall, in the event of a reinstatement pursuant to this Section 6.5(a), be held in trust for and paid over to the ABL Collateral Agent for the benefit of the ABL Creditors, for application to the reinstated ABL Obligations.

(b) Reinstatement of Term Obligations. If any Term Creditor is required in any Insolvency or Liquidation Proceeding or otherwise to turn over or otherwise pay to the estate of the Borrower or any other Grantor any amount (a "Term Recovery"), then the Term Obligations shall be reinstated to the extent of such Term Recovery and the Term Creditors shall be entitled to a reinstatement of Term Obligations with respect to all such recovered amounts. In such event, any Discharge of Term Obligations for all purposes of this Agreement shall be deemed to have not occurred (unless and until same subsequently occurs with respect to the Term Obligations after giving effect to the provisions to this Section 6.5(b)). If this Agreement shall have been terminated prior to such Term Recovery, this Agreement shall be reinstated in full force and effect (and any prior Discharge of Term Obligations shall be deemed not to have occurred), and such prior termination shall not diminish, release, discharge, impair or otherwise affect the obligations of the parties hereto from such date of reinstatement. Any amounts received by the ABL Collateral Agent or any ABL Creditor on account of the ABL Obligations from proceeds of Term Priority Collateral, after the termination of this Agreement (or any prior Discharge of Term Obligations) shall, in the event of a reinstatement pursuant to this Section 6.5(b), be held in trust for and paid over to the Term Collateral Agent for the benefit of the Term Creditors, for application to the reinstated Term Obligations.

(c) This Section 6.5 shall survive termination of this Agreement.

SECTION 6.6 Post-Petition Interest. (a) Claims by ABL Creditors. Neither the Term Collateral Agent nor any Term Creditor shall oppose or seek to challenge any claim by the ABL Collateral Agent or any ABL Creditor for allowance in any Insolvency or Liquidation Proceeding of ABL Obligations consisting of post-petition or post-filing interest, fees or expenses to the extent of the value of the ABL Creditors' Lien on (i) the ABL Priority Collateral (without regard to the existence of the Term Creditors' Lien thereon) and (ii) the Term Priority Collateral (after taking into account the Term Creditors' Lien thereon).

(b) Claims by Term Creditors. Neither the ABL Collateral Agent nor the ABL Creditors shall oppose or seek to challenge any claim by the Term Collateral Agent or any Term Creditor for allowance in any Insolvency or Liquidation Proceeding of Term Obligations consisting of post-petition or post-filing interest, fees or expenses to the extent of the value of the Term Creditors' Lien on (i) the Term Priority Collateral (without regard to the existence of the ABL Creditors' Lien thereon) and (ii) the ABL Priority Collateral (after taking into account the ABL Creditors' Lien thereon).

(c) [RESERVED]

(d) Separate Classes. Without limiting the foregoing, it is the intention of the parties hereto that (and to the maximum extent permitted by law the parties hereto agree that) (x) the Term Obligations (and the security therefor) constitute a separate and distinct class (and separate and distinct claims) from the ABL Obligations (and the security therefor), (y) the ABL

Obligations (and the security therefor) constitute a separate and distinct class (and separate and distinct claims) from the Term Obligations (and the security therefor).

SECTION 6.7 Voting for Plan of Reorganization. Each of the ABL Creditors, and the Term Creditors shall be entitled to vote as separate classes with respect to any plan of reorganization or arrangement in connection with any Insolvency or Liquidation Proceeding; provided, however, that the ABL Administrative Agent, on behalf of itself and the ABL Creditors and the Term Administrative Agent on behalf of itself and the Term Creditors agree that neither the ABL Administrative Agent nor the Term Administrative Agent nor any ABL Creditor nor Term Creditor shall take any action or vote in any way which supports any plan of reorganization or arrangement that is inconsistent with the terms of this Agreement.

ARTICLE VII

RELIANCE; WAIVERS; ETC.

SECTION 7.1 Reliance. Other than any reliance on the terms of this Agreement, the ABL Collateral Agent, on behalf of itself and the ABL Creditors under its ABL Loan Documents, acknowledges that it and such ABL Creditors have, independently and without reliance on the Term Collateral Agent or any Term Creditor, and based on documents and information deemed by them appropriate, made their own credit analysis and decision to enter into such ABL Loan Documents and be bound by the terms of this Agreement and they will continue to make their own credit decision in taking or not taking any action under the ABL Credit Agreement or this Agreement. The Term Collateral Agent, on behalf of itself and the Term Creditors, acknowledges that it and the Term Creditors have, independently and without reliance on the ABL Collateral Agent or any ABL Creditor, and based on documents and information deemed by them appropriate, made their own credit analysis and decision to enter into each of the Term Loan Documents and be bound by the terms of this Agreement and they will continue to make their own credit decision in taking or not taking any action under the Term Loan Documents or this Agreement.

SECTION 7.2 No Warranties or Liability. ABL Collateral Agent, on behalf of itself and the ABL Creditors under the ABL Loan Documents, acknowledge and agree that each of the Term Collateral Agent and the Term Creditors have made no express or implied representation or warranty, including with respect to the execution, validity, legality, completeness, collectibility or enforceability of any of the Term Loan Documents, the ownership of any Collateral or the perfection or priority of any Liens thereon. The Term Creditors will be entitled to manage and supervise their respective loans and extensions of credit under the Term Loan Documents in accordance with law and as they may otherwise, in their sole discretion, deem appropriate. Term Collateral Agent, on behalf of itself and the Term Creditors under the Term Loan Documents, acknowledge and agree that each of the ABL Collateral Agent and the ABL Creditors have made no express or implied representation or warranty, including with respect to the execution, validity, legality, completeness, collectibility or enforceability of any of the ABL Documents, the ownership of any Collateral or the perfection or priority of any Liens thereon. The ABL Creditors will be entitled to manage and supervise their respective loans and extensions of credit under their respective ABL Documents in accordance with law and as they

may otherwise, in their sole discretion, deem appropriate. The Term Collateral Agent and the Term Creditors shall have no duty to the ABL Collateral Agent or any of the ABL Creditors, to act or refrain from acting in a manner which allows, or results in, the occurrence or continuance of an event of default or default under any agreements with the Borrower or any Grantor (including the ABL Loan Documents and the Term Loan Documents), regardless of any knowledge thereof which they may have or be charged with. The ABL Collateral Agent and the ABL Creditors shall have no duty to the Term Collateral Agent or any of the Term Creditors, to act or refrain from acting in a manner which allows, or results in, the occurrence or continuance of an event of default or default under any agreements with the Borrower or any Grantor (including the ABL Loan Documents and the Term Loan Documents), regardless of any knowledge thereof which they may have or be charged with.

SECTION 7.3 No Waiver of Lien Priorities. (a) Failure to Act. (i) No right of the ABL Creditors, the ABL Collateral Agent or any of them to enforce any provision of this Agreement or any ABL Loan Document shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of the Borrower or any other Grantor or by any act or failure to act by any ABL Creditor or the ABL Collateral Agent, or by any noncompliance by any Person with the terms, provisions and covenants of this Agreement, any of the ABL Loan Documents or any of the Term Loan Documents, regardless of any knowledge thereof which the ABL Collateral Agent or the ABL Creditors, or any of them, may have or be otherwise charged with.

(ii) No right of the Term Creditors, the Term Collateral Agent or any of them to enforce any provision of this Agreement or any Term Loan Document (subject to the provisions of this Agreement) shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of the Borrower or any other Grantor or by any act or failure to act by any Term Creditor or the Term Collateral Agent, or by any noncompliance by any Person with the terms, provisions and covenants of this Agreement, any of the Term Loan Documents or any ABL Loan Document, regardless of any knowledge thereof which the Term Collateral Agent or the Term Creditors, or any of them, may have or be otherwise charged with.

(b) Acts by ABL Creditors. Without in any way limiting the generality of Section 7.3(a) (but subject to the rights of the Borrower and the other Grantors under the ABL Loan Documents), the ABL Creditors, the ABL Collateral Agent and any of them may, at any time and from time to time in accordance with the ABL Loan Documents, this Agreement (including Section 5.3) and/or applicable law, without the consent of, or notice to, the Term Collateral Agent or any Term Creditor without incurring any liabilities to the Term Collateral Agent or any other Term Creditor and without impairing or releasing the Lien priorities and other benefits provided in this Agreement (even if any right of subrogation or other right or remedy of the Term Collateral Agent or any Term Creditor is affected, impaired or extinguished thereby) do any one or more of the following, but subject to the limitations set forth in this Agreement:

(i) make loans and advances to any Grantor or issue, guaranty or obtain letters of credit for account of any Grantor or otherwise extend credit to any Grantor, in any amount and on any terms, whether pursuant to a commitment or as a

discretionary advance and whether or not any default or event of default or failure of condition is then continuing;

(ii) change the manner, place or terms of payment or change or extend the time of payment of, or amend, renew, exchange, increase or alter, the terms of any of the ABL Obligations or any Lien on any ABL Priority Collateral or guaranty thereof or any liability of the Borrower or any other Grantor, or any liability incurred directly or indirectly in respect thereof (including any increase in or extension of the ABL Obligations, subject to Section 5.3) or otherwise amend, renew, exchange, extend, modify or supplement in any manner any Liens with respect to the ABL Priority Collateral held by the ABL Collateral Agent or any of the ABL Creditors, the ABL Obligations or any of the ABL Loan Documents;

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

(iv) settle or compromise any ABL Obligation or any other liability of the Borrower or any other Grantor or any security therefor or any liability incurred directly or indirectly in respect thereof and apply any sums by whomsoever paid and however realized to any liability (including the ABL Obligations) in any manner or order;

(v) exercise or delay in or refrain from exercising any right or remedy against the Borrower or any other Grantor or any other Person or with respect to any security, elect any remedy and otherwise deal freely with the Borrower, any other Grantor or any ABL Priority Collateral and any security and any guarantor or any liability of the Borrower or any other Grantor to the ABL Creditors or any liability incurred directly or indirectly in respect thereof; and

(vi) release or discharge any ABL Obligation or any guaranty thereof or any agreement or obligation of any Grantor or any other Person with respect thereto.

(c) Waivers by the Term Collateral Agent. The Term Collateral Agent, on behalf of itself and the Term Creditors, and each other Term Creditor (by its acceptance of the benefits of the Term Loan Documents), agrees not to assert and hereby waives, to the fullest extent permitted by law, any right to demand, request, plead or otherwise assert or otherwise claim the benefit of, any marshalling, appraisal, valuation or other similar right that may otherwise be available under applicable law with respect to the ABL Priority Collateral or any other similar rights a junior secured creditor may have under applicable law.

(d) Acts by Term Creditors. Without in any way limiting the generality of Section 7.3(a) (but subject to the rights of the Borrower and the other Grantors under the Term Loan Documents), the Term Creditors, the Term Collateral Agent and any of them may, at any time and from time to time in accordance with the Term Loan Documents, this Agreement

(including Section 5.3) and/or applicable law, without the consent of, or notice to, the ABL Collateral Agent or any ABL Creditor without incurring any liabilities to the ABL Collateral Agent or any ABL Creditor and without impairing or releasing the Lien priorities and other benefits provided in this Agreement (even if any right of subrogation or other right or remedy of the ABL Collateral Agent or any ABL Creditor with respect to the Term Priority Collateral is affected, impaired or extinguished thereby), do any one or more of the following, but subject to the limitations set forth in this Agreement:

(i) make loans and advances to any Grantor or issue, guaranty or obtain letters of credit for account of any Grantor or otherwise extend credit to any Grantor, in any amount and on any terms, whether pursuant to a commitment or as a discretionary advance and whether or not any default or event of default or failure of condition is then continuing;

(ii) change the manner, place or terms of payment or change or extend the time of payment of, or amend, renew, exchange, increase or alter, the terms of any of the Term Obligations or any Lien on any Term Priority Collateral or guaranty thereof or any liability of the Borrower or any other Grantor, or any liability incurred directly or indirectly in respect thereof (including any increase in or extension of the Term Obligations, subject to Section 5.3) or, subject to the terms hereof (including Section 5.3), otherwise amend, renew, exchange, extend, modify or supplement in any manner any Liens held by the Term Collateral Agent or any of the Term Creditors, the Term Obligations or any of the Term Loan Documents;

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

(iv) settle or compromise any Term Obligation or any other liability of the Borrower or any other Grantor or any security therefor or any liability incurred directly or indirectly in respect thereof and apply any sums by whomsoever paid and however realized to any liability (including the Term Obligations) in any manner or order;

(v) except or otherwise restricted by the Agreement, including Section 5.3 and 5.4, and by applicable law, exercise or delay in or refrain from exercising any right or remedy against the Borrower or any other Grantor or any other Person or with respect to any security, elect any remedy and otherwise deal freely with the Borrower, any other Grantor or any Term Priority Collateral and any security and any guarantor or any liability of the Borrower or any other Grantor to the Term Creditors or any liability incurred directly or indirectly in respect thereof; and

(vi) release or discharge any Term Obligation or any guaranty thereof or any agreement or obligation of any Grantor or any other Person with respect thereto.

(e) Waivers by the ABL Collateral Agent. The ABL Collateral Agent, on behalf of itself and the ABL Creditors, and each other ABL Creditor (by its acceptance of the benefits of the ABL Loan Documents), agrees not to assert and hereby waives, to the fullest extent permitted by law, any right to demand, request, plead or otherwise assert or otherwise claim the benefit of, any marshalling, appraisal, valuation or other similar right that may otherwise be available under applicable law with respect to the Term Priority Collateral or any other similar rights a junior secured creditor may have under applicable law.

SECTION 7.4 Waiver of Liability; Indemnity. (a) ABL Priority Collateral. With respect to the ABL Priority Collateral, the Term Collateral Agent, on behalf of itself and the Term Creditors, and each other Term Creditor (by its acceptance of the benefits of the Term Loan Documents) each agree that the ABL Creditors and the ABL Collateral Agent shall have no liability to any of the Term Collateral Agent or any Term Creditors; and the Term Collateral Agent, on behalf of itself and the Term Creditors; and each other Term Creditor (by its acceptance of the benefits of the Term Loan Documents), each hereby waive any claim against any ABL Creditor (or the ABL Collateral Agent), arising out of any and all actions which the ABL Creditors or the ABL Collateral Agent may take or permit or omit to take with respect to: (i) the ABL Loan Documents (including, without limitation, any failure to perfect or obtain perfected security interests in the ABL Priority Collateral), (ii) the collection of the ABL Obligations or (iii) the foreclosure upon, or sale, liquidation or other disposition of, any ABL Priority Collateral. The Term Collateral Agent, on behalf of itself and the Term Creditors and each other Term Creditor (by its acceptance of the benefits of the Term Loan Documents), each agree that the ABL Creditors and the ABL Collateral Agent have no duty, express or implied, fiduciary or otherwise, to any of them in respect of the maintenance or preservation of the ABL Priority Collateral, the ABL Obligations or otherwise. Neither the ABL Collateral Agent nor any other ABL Creditor nor any of their respective directors, officers, employees or agents will be liable for failure to demand, collect or realize upon any of the ABL Priority Collateral or for any delay in doing so, or will be under any obligation to sell or otherwise dispose of any ABL Priority Collateral upon the request of any other Grantor or upon the request of the Term Collateral Agent, any other holder of Term Obligations or any other Person or to take any other action whatsoever with regard to the ABL Priority Collateral or any part thereof. Without limiting the foregoing, the Term Collateral Agent, on behalf of itself and the Term Creditors, and each Term Creditor (by its acceptance of the benefits of the Term Loan Documents), each agree that neither the ABL Collateral Agent nor any other ABL Creditor (in directing the Collateral Agent to take any action with respect to the ABL Priority Collateral) shall have any duty or obligation to realize first upon any type of ABL Priority Collateral or to sell, dispose of or otherwise liquidate all or any portion of the ABL Priority Collateral in any manner, including as a result of the application of the principles of marshaling or otherwise, that would maximize the return to any class of Creditors holding Obligations of any type (whether ABL Obligations or Term Obligations), notwithstanding that the order and timing of any such realization, sale, disposition or liquidation may affect the amount of proceeds actually received by such class of Creditors from such realization, sale, disposition or liquidation.

(b) Term Priority Collateral. With respect to the Term Priority Collateral, the ABL Collateral Agent, on behalf of itself and the ABL Creditors, and each other ABL Creditor (by its acceptance of the benefits of the ABL Loan Documents), each agree that the Term Creditors and the Term Collateral Agent shall have no liability to the ABL Collateral Agent or

any ABL Creditors; and each other ABL Creditor (by its acceptance of the benefits of the ABL Loan Documents) each hereby waive any claim against any Term Creditor (or the Term Collateral Agent), arising out of any and all actions which the Term Creditors or the Term Collateral Agent may take or permit or omit to take with respect to: (i) the Term Loan Documents (including, without limitation, any failure to perfect or obtain perfected security interests in the Term Collateral), (ii) the collection of the Term Obligations or (iii) the foreclosure upon, or sale, liquidation or other disposition of, any Term Priority Collateral. The ABL Collateral Agent, on behalf of itself and the ABL Creditors, and each other ABL Creditor (by its acceptance of the benefits of the ABL Loan Documents), each agree that the Term Creditors and the Term Collateral Agent have no duty, express or implied, fiduciary or otherwise, to any of them in respect of the maintenance or preservation of the Term Priority Collateral, the Term Obligations or otherwise. Neither the Term Collateral Agent nor any other Term Creditor nor any of their respective directors, officers, employees or agents will be liable for failure to demand, collect or realize upon any of the Term Priority Collateral or for any delay in doing so, or will be under any obligation to sell or otherwise dispose of any Term Priority Collateral upon the request of any other Grantor or upon the request of the ABL Collateral Agent, any other holder of ABL Obligations or any other Person or to take any other action whatsoever with regard to the Term Priority Collateral or any part thereof. Without limiting the foregoing, the ABL Collateral Agent, on behalf of itself and the ABL Creditors, and each ABL Creditor (by its acceptance of the benefits of the ABL Loan Documents), each agree that neither the Term Collateral Agent nor any other Term Creditor (in directing the Collateral Agent to take any action with respect to the Term Priority Collateral) shall have any duty or obligation to realize first upon any type of Term Priority Collateral or to sell, dispose of or otherwise liquidate all or any portion of the Term Priority Collateral in any manner, including as a result of the application of the principles of marshaling or otherwise, that would maximize the return to any class of Creditors holding Obligations of any type (whether Term Obligations or ABL Obligations), notwithstanding that the order and timing of any such realization, sale, disposition or liquidation may affect the amount of proceeds actually received by such class of Creditors from such realization, sale, disposition or liquidation.

(c) Collateral Agent. With respect to its share of the Obligations, any Collateral Agent which is independently a Creditor shall have and may exercise the same rights and powers hereunder as, and shall be subject to the same obligations and liabilities as and to the extent set forth herein for, any other Creditor, all as if such Collateral Agent were not a Collateral Agent. The term "Creditors" or any similar term shall, unless the context clearly otherwise indicates, include any Collateral Agent in its individual capacity as a Creditor. Each Collateral Agent and its affiliates may lend money to, and generally engage in any kind of business with, the Grantors or any of their Affiliates as if such Collateral Agent were not acting as a Collateral Agent and without any duty to account therefor to any other Creditor.

SECTION 7.5 Obligations Unconditional. All rights, interests, agreements and obligations of the ABL Collateral Agent and the ABL Creditors and the Term Collateral Agent and the Term Creditors, respectively, hereunder (including the Lien priorities established hereby) shall remain in full force and effect irrespective of:

(a) any lack of validity or enforceability of any ABL Loan Document or any Term Loan Document;

(b) any change in the time, manner or place of payment of, or in any other terms of, all or any of the ABL Obligations or Term Obligations, or any amendment or waiver or other modification, including any increase in the amount thereof, whether by course of conduct or otherwise, of the terms of any ABL Loan Document or any Term Loan Document;

(c) any exchange of any security interest in any Collateral or any other collateral, or any amendment, waiver or other modification, whether in writing or by course of conduct or otherwise, of all or any of the ABL Obligations or Term Obligations or any guarantee thereof;

(d) the commencement of any Insolvency or Liquidation Proceeding in respect of the Borrower or any other Grantor, or

(e) any other circumstances which otherwise might constitute a defense available to, or a discharge of, the Borrower or any other Grantor in respect of any of the ABL Obligations, or of the Term Collateral Agent or any Term Creditor in respect of this Agreement.

ARTICLE VIII

MISCELLANEOUS

SECTION 8.1 Conflicts. In the event of any conflict between the provisions of this Agreement and the provisions of the ABL Loan Documents or the Term Loan Documents, as between the parties other than the Grantors the provisions of this Agreement shall govern and control.

SECTION 8.2 Effectiveness; Continuing Nature of this Agreement; Severability. This Agreement shall become effective when executed and delivered by the parties hereto. This is a continuing agreement of lien subordination and (i) the ABL Creditors may, at any time and without notice to the Term Collateral Agent or any Term Creditor and (ii) the Term Creditors may, at any time and without notice to the ABL Collateral Agent or any ABL Creditor, in each case, continue to extend credit and other financial accommodations and lend monies to or for the benefit of the Borrower or any Grantor constituting ABL Obligations (in the case of the ABL Creditors) or Term Obligations (in the case of the Term Creditors) in reliance hereof. The ABL Collateral Agent, on behalf of itself and the ABL Creditors, and each other ABL Creditor (by its acceptance of the benefits of the ABL Documents) and the Term Collateral Agent, on behalf of itself and the Term Creditors, and each other Term Creditor (by its acceptance of the benefits of the Term Loan Document), hereby waives any right it may have under applicable law to revoke this Agreement or any of the provisions of this Agreement. The terms of this Agreement shall survive, and shall continue in full force and effect, in any Insolvency or Liquidation Proceeding. Without limiting the generality of the foregoing, this Agreement is intended to constitute and shall be deemed to constitute a "subordination agreement" within the meaning of Section 510(a) of the Bankruptcy Code and is intended to be and shall be interpreted to be enforceable to the maximum extent permitted pursuant to applicable nonbankruptcy law. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions hereof, and any such prohibition or unenforceability in

any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. All references to the Borrower or any other Grantor shall include the Borrower or such Grantor as debtor and debtor-in-possession and any receiver or trustee for the Borrower or any other Grantor (as the case may be) in any Insolvency or Liquidation Proceeding. This Agreement shall terminate and be of no further force and effect, (i) with respect to the ABL Collateral Agent, the ABL Creditors and the ABL Obligations, upon the Discharge of ABL Obligations (in a manner which is not in contravention of the terms of this Agreement), subject to the rights of the ABL Creditors and the Term Creditors under Section 6.5, and (ii) with respect to the Term Collateral Agent, the Term Creditors and the Term Obligations, the date of the Discharge of Term Obligations, subject to the rights of the Term Creditors and the ABL Creditors under Section 6.5.

SECTION 8.3 Amendments; Waivers. No amendment, modification or waiver of any of the provisions of this Agreement by the ABL Collateral Agent or the Term Collateral Agent shall be made unless the same shall be in writing signed on behalf of each party hereto; provided that

(a) the ABL Collateral Agent (at the direction of the Required ABL Creditors) may, without the written consent of any other Creditor, agree to modifications of this Agreement for the purpose of securing additional extensions of credit (including pursuant to the ABL Credit Agreement or any Refinancing or extension thereof) and adding new creditors as "ABL Creditors" and "Creditors" hereunder, so long as such extensions (and resulting additions) do not otherwise give rise to a violation of the express terms of the ABL Credit Agreement and, without the prior written consent of the Term Collateral Agent, Section 5.3(a),

(b) the Term Collateral Agent (at the direction of the Required Term Creditors) may, without the written consent of any other Creditor, agree to modifications of this Agreement for the purpose of securing additional extensions of credit (including pursuant to the Term Credit Agreement or any Refinancing or extension thereof) and adding new creditors as "Term Creditors" and "Creditors" hereunder, so long as such extensions (and resulting additions) do not otherwise give rise to a violation of the express terms of the Term Credit Agreement and, without the prior written consent of the ABL Collateral Agent, Section 5.3(b),

(c) additional Grantors may be added as parties hereto in accordance with the provisions of Section 8.18 of this Agreement.

Each waiver of the terms of this Agreement, if any, shall be a waiver only with respect to the specific instance involved and shall not impair the rights of the parties making such waiver or the obligations of the other parties to such party in any other respect or at any other time. Notwithstanding the foregoing, no Grantor shall have any right to consent to or approve any amendment, modification or waiver of any provision of this Agreement except to the extent its rights, interests, liabilities or privileges are directly affected or the provisions of any of the Documents are modified by the effect of any such amendment, modification or waiver. One of the Collateral Agents shall provide the Borrower with written notice of each amendment, modification and waiver, with a true and correct copy thereof.

SECTION 8.4 Information Concerning Financial Condition of the Grantors and their Subsidiaries. The ABL Collateral Agent and the ABL Creditors and the Term Collateral Agent and the Term Creditors, shall each be responsible for keeping themselves informed of (a) the financial condition of each Grantor and their respective Subsidiaries and all endorsers and/or guarantors of the ABL Obligations or the Term Obligations and (b) all other circumstances bearing upon the risk of nonpayment of the ABL Obligations or the Term Obligations. Except as otherwise set forth herein, none of the Collateral Agents nor any Creditor shall have any duty to advise any of the other Collateral Agents, or any other Creditor, of information known to it or them regarding such condition or any such circumstances or otherwise. With respect to the ABL Priority Collateral, in the event the ABL Collateral Agent or any of the ABL Creditors, in its or their sole discretion, undertakes at any time or from time to time to provide any such information to the Term Collateral Agent or any Term Creditor, it or they shall be under no obligation (w) to make, and the ABL Collateral Agent and the ABL Creditors shall not make, any express or implied representation or warranty, including with respect to the accuracy, completeness, truthfulness or validity of any such information so provided, (x) to provide any additional information or to provide any such information on any subsequent occasion, (y) to undertake any investigation or (z) to disclose any information which, pursuant to accepted or reasonable commercial finance practices, such party wishes to maintain confidential or is otherwise required to maintain confidential. With respect to the Term Priority Collateral, in the event the Term Collateral Agent or any of the Term Creditors, in its or their sole discretion, undertakes at any time or from time to time to provide any such information to the ABL Collateral Agent or any ABL Creditor, it or they shall be under no obligation (w) to make, and the Term Collateral Agent and the Term Creditors shall not make, any express or implied representation or warranty, including with respect to the accuracy, completeness, truthfulness or validity of any such information so provided, (x) to provide any additional information or to provide any such information on any subsequent occasion, (y) to undertake any investigation or (z) to disclose any information which, pursuant to accepted or reasonable commercial finance practices, such party wishes to maintain confidential or is otherwise required to maintain confidential.

SECTION 8.5 Subrogation. Subject to the Discharge of ABL Obligations, with respect to the value of any payments or distributions in cash, property or other assets that any of the Term Creditors or the Term Collateral Agent pay over to the ABL Collateral Agent or ABL Creditors under the terms of this Agreement, the respective paying Creditors shall be subrogated to the rights of the payee Creditors; provided that, the Term Collateral Agent, on behalf of itself and the Term Creditors, and each other Term Creditor (by its acceptance of the benefits of the Term Loan Documents), hereby agree not to assert or enforce all such rights of subrogation it may acquire as a result of any payment hereunder until the Discharge of ABL Obligations has occurred. The Borrower acknowledges and agrees that the value of any payments or distributions in cash, property or other assets received by any of the Term Collateral Agent or the Term Creditors and paid over to the ABL Collateral Agent or the ABL Creditors pursuant to, and applied in accordance with this Agreement, shall not relieve or reduce any of the Obligations owed by the Borrower under the Term Loan Documents.

(b) Subject to the Discharge of Term Obligations, with respect to the value of any payments or distributions in cash, property or other assets that any of the ABL Collateral Agent or the ABL Creditors pay over to the Term Collateral Agent or Term Creditors under the

terms of this Agreement, the respective paying Creditors shall be subrogated to the rights of the payee Creditors;provided that, the Term Collateral Agent, on behalf of itself and the Term Creditors, and each other Term Creditor (by its acceptance of the benefits of the Term Credit Documents), and the ABL Collateral Agent, on behalf of itself and the ABL Creditors, and each other ABL Creditor (by its acceptance of the benefits of the ABL Credit Documents), hereby agree not to assert or enforce all such rights of subrogation it may acquire as a result of any payment hereunder until, the Discharge of Term Obligations has occurred. The Borrower acknowledges and agrees that the value of any payments or distributions in cash, property or other assets received by the ABL Collateral Agent or the ABL Creditors and paid over to the Term Collateral Agent or the Term Creditors pursuant to, and applied in accordance with this Agreement, shall not relieve or reduce any of the Obligations owed by the Borrower under the ABL Loan Documents.

SECTION 8.6 Reserved.

SECTION 8.7 SUBMISSION TO JURISDICTION; WAIVERS. (a) THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMIT TO THE NONEXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN THE BOROUGH OF MANHATTAN, CITY OF NEW YORK AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

(b) THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION WHICH EACH MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT IN ANY COURT REFERRED TO IN SECTION 8.7(a). EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(c) EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT,

TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 8.7.

SECTION 8.8 Notices. All notices to the ABL Creditors or the Term Creditors permitted or required under this Agreement may be sent, respectively, to the ABL Collateral Agent or the Term Collateral Agent. Unless otherwise specifically provided herein, any notice or other communication herein required or permitted to be given shall be in writing and may be personally served, electronically mailed or sent by courier service or U.S. mail and shall be deemed to have been given when delivered in person or by courier service, upon receipt of electronic mail or four Business Days after deposit in the U.S. mail (registered or certified, with postage prepaid and properly addressed). For the purposes hereof, the addresses of the parties hereto shall be as set forth below each party's name on the signature pages hereto, or, as to each party, at such other address as may be designated by such party in a written notice to all of the other parties.

SECTION 8.9 Further Assurances. Each of (i) the ABL Collateral Agent, on behalf of itself and the ABL Creditors, (ii) the Term Collateral Agent, on behalf of itself and the Term Creditors and (iii) the Borrower, agree that each of them shall take such further action and shall execute and deliver such additional documents and instruments (in recordable form, if requested) as any of the ABL Collateral Agent and/or the Term Collateral Agent may reasonably request to effectuate the terms of and the lien priorities contemplated by this Agreement. Each ABL Creditor, by its acceptance of the benefits of the ABL Loan Documents, agrees to be bound by the agreements herein made by it and the ABL Collateral Agent, on its behalf. Each Term Creditor, by its acceptance of the benefits of the Term Loan Documents, agrees to be bound by the agreements herein made by it and the Term Collateral Agent, on its behalf.

SECTION 8.10 APPLICABLE LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK INCLUDING GENERAL OBLIGATIONS LAW 5-1401.

SECTION 8.11 Binding on Successors and Assigns. This Agreement shall be binding upon the ABL Collateral Agent, the ABL Creditors, the Term Collateral Agent, the Term Creditors and their respective successors and assigns, including without limitation any successor or assign to all or a portion of the duties of any Collateral Agent (or any sub-agent or sub-collateral agent appointed by it).

SECTION 8.12 Specific Performance. Each of the ABL Collateral Agent and the Term Collateral Agent may demand specific performance of this Agreement. Each of the ABL Collateral Agent, on behalf of itself and the ABL Creditors and the Term Collateral Agent, on behalf of itself and the Term Creditors, hereby irrevocably waives any defense based on the

adequacy of a remedy at law and any other defense which might be asserted to bar the remedy of specific performance in any action which may be brought by the ABL Collateral Agent or the Term Collateral Agent, as the case may be.

SECTION 8.13 Headings. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose or be given any substantive effect.

SECTION 8.14 Counterparts. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement or any document or instrument delivered in connection herewith by telecopy shall be effective as delivery of a manually executed counterpart of this Agreement or such other document or instrument, as applicable.

SECTION 8.15 Authorization. By its signature, each Person executing this Agreement on behalf of a party hereto represents and warrants to the other parties hereto that it is duly authorized to execute this Agreement. Each ABL Creditor, by its acceptance of the benefits of the ABL Loan Documents and each Term Creditor, by its acceptance of the benefits of the Term Loan Documents, agrees to be bound by the agreements made herein.

SECTION 8.16 No Third Party Beneficiaries; Effect of Agreement. This Agreement and the rights and benefits hereof shall inure to the benefit of each of the parties hereto and its respective successors and assigns and shall inure to the benefit of each of the ABL Creditors and the Term Creditors. No other Person shall have or be entitled to assert rights or benefits hereunder. Nothing in this Agreement shall impair, as between the Borrower and the ABL Collateral Agent and the ABL Creditors or the Borrower and the Term Collateral Agent and the Term Creditors, the obligations of the Borrower to pay principal, interest, fees and other amounts as provided in the ABL Loan Documents and the Term Loan Documents, respectively.

SECTION 8.17 Provisions Solely to Define Relative Rights. The provisions of this Agreement are and are intended solely for the purpose of defining the relative rights of the ABL Creditors and the ABL Collateral Agent and the Term Creditors and the Term Collateral Agent. None of the Borrower, any other Grantor or any other creditor thereof shall have any rights hereunder. Nothing in this Agreement is intended to or shall impair the obligations of the Borrower or any other Grantor, which are absolute and unconditional, to pay the ABL Obligations and the Term Obligations as and when the same shall become due and payable in accordance with their terms.

SECTION 8.18 Grantors; Additional Grantors. It is understood and agreed that Holdings, the Borrower and each Subsidiary Guarantor on the date of this Agreement shall constitute the original Grantors party hereto. The original Grantors hereby covenant and agree to cause each Subsidiary of the Borrower which becomes a Subsidiary Guarantor after the date hereof to contemporaneously become a party hereto (as a Grantor) by executing and delivering a counterpart hereof to the ABL Collateral Agent and the Term Collateral Agent or by executing and delivering an assumption agreement in form and substance reasonably satisfactory to the

ABL Collateral Agent and the Term Collateral Agent. The parties hereto further agree that, notwithstanding any failure to take the actions required by the immediately preceding sentence, each Person which becomes a Subsidiary Guarantor at any time (and any security granted by any such Person) shall be subject to the provisions hereof as fully as if same constituted a Grantor party hereto and had complied with the requirements of the immediately preceding sentence.

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

CREDIT SUISSE CAYMAN ISLANDS BRANCH in its capacity as ABL Administrative Agent

By: _____
Name:
Title:

By: _____
Name:
Title:

[*Signature Page to Intercreditor Agreement*]

Notice Address

Eleven Madison Avenue, OMA-2
New York, NY 10010
Attention: Loan Services Manager
Telecopy: 212-538-3380
Telephone: 212-325-8304

with a copy to:

Skadden, Arps, Slate, Meagher & Flom LLP
300 S. Grand Ave, Suite 3400
Attention: David Kitchen
Telecopy: (213) 687-5600
Telephone: (213) 687-5000
Email: dkitchen@skadden.com

[*Signature Page to Intercreditor Agreement*]

JPMORGAN CHASE BANK, N.A., in its capacity as ABL Collateral Agent

By: _____
Name:
Title:

[*Signature Page to Intercreditor Agreement*]

Notice Address

Michael A. Hintz
Account Executive – ABL
111 East Wisconsin Ave., Floor 15
Milwaukee, WI 53202-4815

Telecopy: 414-977-6652
Telephone: 414-977-6666

with a copy to:

Skadden, Arps, Slate, Meagher & Flom LLP
333 West Wacker Drive
Suite 2100
Chicago, IL 60606
Attn: Seth E. Jacobson

Telecopy: 312-407-0700
Telephone: 312-407-0411

CREDIT SUISSE, CAYMAN ISLANDS BRANCH, in its capacities as Term Administrative Agent and Term Collateral Agent

By: _____
Name
Title:

By: _____
Name
Title:

Notice Address

Eleven Madison Avenue, OMA-2
New York, NY 10010
Attention: Loan Services Manager
Telecopy: 212-538-3380
Telephone: 212-325-8304

with a copy to:

Skadden, Arps, Slate, Meagher & Flom LLP
300 S. Grand Ave, Suite 3400
Attention: David Kitchen
Telecopy: (213) 687-5600
Telephone: (213) 687-5000
Email: dkitchen@skadden.com

Notice Address:

7777 North 73rd Street
Milwaukee, WI 53223
Attention: Chief Executive Officer and President
Fax: 414-354-8448

with a copy to:

Aurora Capital Group
10877 Wilshire Boulevard
Suite 2100

DOUGLAS DYNAMICS HOLDINGS, INC.

By: _____
Name
Title:

Los Angeles, CA 90024
Attention: Secretary
Fax: 310-824-2791

[*Signature Page to Intercreditor Agreement*]

Notice Address:

7777 North 73rd Street
Milwaukee, WI 53223
Attention: Chief Executive Officer and President
Fax: 414-354-8448

with a copy to:

Aurora Capital Group
10877 Wilshire Boulevard
Suite 2100
Los Angeles, CA 90024
Attention: Secretary
Fax: 310-824-2791

DOUGLAS DYNAMICS, L.L.C.

By: _____
Name
Title:

[*Signature Page to Intercreditor Agreement*]

Notice Address:

7777 North 73rd Street
Milwaukee, WI 53223
Attention: Chief Executive Officer and President
Fax: 414-354-8448

with a copy to:

Aurora Capital Group
10877 Wilshire Boulevard
Suite 2100
Los Angeles, CA 90024
Attention: Secretary
Fax: 310-824-2791

DOUGLAS DYNAMICS FINANCE COMPANY

By: _____
Name
Title:

[*Signature Page to Intercreditor Agreement*]

Notice Address:

7777 North 73rd Street
Milwaukee, WI 53223
Attention: Chief Executive Officer and President
Fax: 414-354-8448

with a copy to:

Aurora Capital Group
10877 Wilshire Boulevard
Suite 2100
Los Angeles, CA 90024
Attention: Secretary
Fax: 310-824-2791

FISHER, LLC

By: _____
Name
Title:

[*Signature Page to Intercreditor Agreement*]

EXHIBIT M

FIXED CHARGE COVERAGE COMPLIANCE CERTIFICATE

All calculations under this certificate shall be for the Fiscal Quarter Period preceding the date of determination, which shall be the last day of any month.

I. **Consolidated Interest Expense**

(a)	total interest expense (including that portion attributable to Capital Leases in accordance with GAAP and capitalized interest) payable in cash of the Company and its Subsidiaries on a consolidated basis with respect to all outstanding Indebtedness of the Company and its Subsidiaries, including all commissions, discounts and other fees and charges owed with respect to letters of credit and net costs under Interest Rate Agreements: (1)	$
(b)	the aggregate amount of interest income of the Company and its Subsidiaries during such period paid in cash	$
Consolidated Interest Expense (Item (a) minus Item (b))		$
II.	**Consolidated Adjusted EBITDA**	
(a)	Consolidated Net Income:	$
(i)	Consolidated Interest Expense and non-Cash interest expense	$
(ii)	provisions for taxes based on income	$
(iii)	total depreciation expense	$
(iv)	total amortization expense (2)	$
(v)	non-cash impairment charges	$
(vi)	non-cash expenses resulting from the grant of stock and stock options and other compensation to management personnel of the Company and its Subsidiaries pursuant to a written incentive plan or agreement	$
(vii)	other non-Cash items that are unusual or otherwise non-recurring items	$
(viii)	expenses for fees under the Management Services Agreement	$
(ix)	any extraordinary losses and non-recurring charges during any period(3)	$
(x)	restructuring charges or reserves (4)	$

(1) Excluding any amounts referred to in Section 2.10 of the Credit Agreement payable on or before the Closing Date and amounts with respect to the termination of Interest Rate Agreements entered into within 90 days of the Closing Date.

(2) Including amortization of goodwill, other intangibles, and financing fees and expenses.

(3) Including severance, relocation costs, one-time compensation charges and losses or charges associated with Interest Rate Agreements.

(4) Including costs related to closure of Facilities.

(xi)	any transaction costs incurred in connection with the issuance of Securities or any refinancing transaction, in each case whether or not such transaction is consummated	$
(xii)	any fees and expenses related to any Permitted Acquisitions	$
(xiii)	the Financial Performance Covenant Cure Amount	$
(b)	Sum of Items (i) thru (xiii)	$
(i)	non-Cash items increasing Consolidated Net Income for such period that are unusual or otherwise non-recurring items	$
(ii)	cash payments made during such period reducing reserves or liabilities for accruals made in prior periods but only to the extent such reserves or accruals were added back to "Consolidated Adjusted EBITDA" in a prior period pursuant to clauses (vi) or (vii) above	$
(iii)	Restricted Payments made during such period to Holdings pursuant to Section 6.5(c)(i)	$
(c)	Sum of Items (i) thru (iii)	$
(d)	Sum of Item (a) and (b)(5)	$
Consolidated Adjusted EBITDA (Item (d) minus Item (c)(6)):		$
III.	**Consolidated Fixed Charges**	
(a)	Consolidated Interest Expense	$
(b)	scheduled payments of principal on Consolidated Total Debt	$
(c)	Consolidated Capital Expenditures (7)	$
(d)	the portion of taxes based on income actually paid in cash during such period by the Company or any of its Subsidiaries whether for such period or any other period	$
(e)	Restricted Payments permitted under Section 6.5(c)(iii) of the Credit Agreement and which are paid in cash during such period	$

Consolidated Fixed Charges (Sum of Items (a)-(e)(8))	$

(5) Without duplication to the extent deducted in the calculation of Consolidated Net Income for such period.

(6) Without duplication.

(7) The aggregate of all expenditures of the Company and its Subsidiaries during such period determined on a consolidated basis that, in accordance with GAAP, are or should be included in "purchase of property and equipment" or similar items reflected in the consolidated statement of cash flows of the Company and its Subsidiaries (other than those financed with secured Indebtedness permitted by Section 6.1 of the Credit Agreement or made or incurred pursuant to Section 6.8(b)(ii) of the Credit Agreement).

(8) Without duplication.

IV.	**Fixed Charge Coverage Ratio**	
(a)	Consolidated Adjusted EBITDA	$
(b)	Consolidated Fixed Charges	$
Fixed Charge Coverage Ratio (Item (a) divided by Item (b))		. :1.00

Schedule 4.1
(Organization and Capital Structure)

Full Legal Name	Type of Organization	Jurisdiction of Organization	Capital Structure
Douglas Dynamics Holdings, Inc.	corporation	Delaware	1,000,000 shares of Common Stock 1 share is designated Series B Preferred Stock and 1 share is designated Series C Preferred Stock
Douglas Dynamics, L.L.C.	limited liability company	Delaware	Percentage Interest of limited liability company units
Douglas Dynamics Finance Company	corporation	Delaware	1,000 shares of Common Stock
Fisher, LLC	limited liability company	Delaware	Percentage Interest of limited liability company units

Schedule 4.2
(Capital Stock and Ownership)
[as of May 21, 2007]

Entity	Capital Structure	Ownership
Douglas Dynamics Holdings, Inc.	1,000,000 shares of Common Stock; 606,656 shares issued and outstanding	Douglas Dynamics Holdings, LLC (50.19%) Ares Corporate Opportunities Fund, L.P. (32.97%) General Electric Pension Trust (15.25%) The remaining stockholders own 1.58% in the aggregate (with each owning less than 0.40% individually).
	1 share is designated Series B Preferred Stock; 1 share of Series B Preferred Stock issued and outstanding	Douglas Dynamics Holdings, LLC (100%)
	1 share is designated Series C Preferred Stock; 1 share of Series C Preferred Stock issued and outstanding	Ares Corporate Opportunities Fund, L.P. (100%)
Douglas Dynamics, L.L.C.	Percentage Interest of limited liability company units	Douglas Dynamics Holdings, Inc. (100%)
Douglas Dynamics Finance Company	1,000 shares of Common Stock	Douglas Dynamics, L.L.C. (100%)
Fisher, LLC	Percentage Interest of limited liability company units	Douglas Dynamics, L.L.C. (100%)

Existence of existing option, warrant, call, right, commitment or other like agreement:

Douglas Dynamics Holdings, Inc.

Grantees (as a group)	Number of Awards Granted
Douglas Management	58,215 options to acquire common stock 8,070 deferred stock units
Douglas Independent Directors	4,124 options to acquire common stock
Aurora Advisors	1,500 options to acquire common stock
Ares Advisors	857 options to acquire common stock

*Note: Approximately 7,800 options to acquire common stock have been reserved for members of Douglas management, but have not been allocated/issued.

Douglas Dynamics, L.L.C.

None.

Douglas Dynamics Finance Company

None.

Fisher, LLC

None.

Schedule 4.9
(Material Adverse Changes)

Douglas Dynamics Holdings, Inc.

None.

Douglas Dynamics, L.L.C.

None.

Douglas Dynamics Finance Company

None.

Fisher, LLC

None.

EXHIBIT N

INTERCREDITOR AGREEMENT

N-1

EXHIBIT O

FIXED CHARGE COVERAGE COMPLIANCE CERTIFICATE

All calculations under this certificate shall be for the 12 month period preceding the date of determination, which shall be the last day of any month.

I.	**Consolidated Interest Expense**		
(a)	total interest expense (including that portion attributable to Capital Leases in accordance with GAAP and capitalized interest) payable in cash of the Company and its Subsidiaries on a consolidated basis with respect to all outstanding Indebtedness of the Company and its Subsidiaries, including all commissions, discounts and other fees and charges owed with respect to letters of credit and net costs under Interest Rate Agreements: (1)		$
(b)	the aggregate amount of interest income of the Company and its Subsidiaries during such period paid in cash		$
Consolidated Interest Expense (Item (a) minus Item (b))			$
II.	**Consolidated Adjusted EBITDA**		
(a)	Consolidated Net Income:		$
	(i)	Consolidated Interest Expense and non-Cash interest expense	$
	(ii)	provisions for taxes based on income	$

	(iii)	total depreciation expense	$
	(iv)	total amortization expense (2)	$
	(v)	non-cash impairment charges	$
	(vi)	non-cash expenses resulting from the grant of stock and stock options and other compensation to management personnel of the Company and its Subsidiaries pursuant to a written incentive plan or agreement	$
	(vii)	other non-Cash items that are unusual or otherwise non-recurring items	$
	(viii)	expenses for fees under the Management Services Agreement	$
	(ix)	any extraordinary losses and non-recurring charges during any period(3)	$
	(x)	restructuring charges or reserves (4)	$

(1) Excluding any amounts referred to in Section 2.10(d) of the Credit Agreement payable on or before the Closing Date and amounts with respect to the termination of Interest Rate Agreements entered into within 90 days of the Closing Date.

(2) Including amortization of goodwill, other intangibles, and financing fees and expenses.

(3) Including severance, relocation costs, one-time compensation charges and losses or charges associated with Interest Rate Agreements.

(4) Including costs related to closure of Facilities.

	(xi)	any transaction costs incurred in connection with the issuance of Securities or any refinancing transaction, in each case whether or not such transaction is consummated	$
	(xii)	any fees and expenses related to any Permitted Acquisitions	$
	(xiii)	the Financial Performance Covenant Cure Amount	$
(b)	Sum of Items (i) thru (xiii)		$
	(i)	non-Cash items increasing Consolidated Net Income for such period that are unusual or otherwise non-recurring items	$
	(ii)	cash payments made during such period reducing reserves or liabilities for accruals made in prior periods but only to the extent such reserves or accruals were added back to "Consolidated Adjusted EBITDA" in a prior period pursuant to clauses (vi) or (vii) above	$
	(iii)	Restricted Payments made during such period to Holdings pursuant to Section 6.5(c)(i)	$
(c)	Sum of Items (i) thru (iii)		$
(d)	Sum of Item (a) and (b)(5)		$
Consolidated Adjusted EBITDA (Item (d) minus Item (c)(6)):			$
III.	**Consolidated Fixed Charges**		
(a)	Consolidated Interest Expense		$
(b)	scheduled payments of principal on Consolidated Total Debt		$
(c)	Consolidated Capital Expenditures(7)		$
(d)	the portion of taxes based on income actually paid in cash during such period by the Company or any of its Subsidiaries whether for such period or any other period		$
(e)	Restricted Payments permitted under Section 6.5(c)(iii) of the Credit Agreement and which are paid in cash during such period		$
Consolidated Fixed Charges (Sum of Items (a)-(e)(8))			$

(5) Without duplication to the extent deducted in the calculation of Consolidated Net Income for such period.

(6) Without duplication.

(7) The aggregate of all expenditures of the Company and its Subsidiaries during such period determined on a consolidated basis that, in accordance with GAAP, are or should be included in "purchase of property and equipment" or similar items reflected in the consolidated statement of cash flows of the Company and its Subsidiaries (other than those financed with secured Indebtedness permitted by Section 6.1 of the Credit Agreement or made or incurred pursuant to Section 6.8(b)(ii) of the Credit Agreement).

(8) Without duplication.

IV.	**Fixed Charge Coverage Ratio**	
(a)	Consolidated Adjusted EBITDA	$
(b)	Consolidated Fixed Charges	$
Fixed Charge Coverage Ratio (Item (a) divided by Item (b))		. :1.00

Schedule 4.11
(Adverse Proceedings)

Douglas Dynamics Holdings, Inc.

None.

Douglas Dynamics, L.L.C.

The inclusion of these items on this schedule is not an admission by the Borrower that these items represent a Material Adverse Effect or that such disclosure was required to be set forth as an exception to this representation.

Bjork, David (Case number MICV2005-01131, filed in Massachusetts Superior Court)

- This is a personal injury case with a date of loss of December 16, 2002. Amount of damages is unspecified, and the Company has not reserved any amount with respect to this matter.

D'Angelo, Amy (Case number 98-3281, filed in New York)

- This is a personal injury case with a date of loss of February 4, 1998. Plaintiff is seeking $10,000,000 in damages, and the Company has reserved $25,000 with respect to this matter.

Employment and labor-related claims are listed in Schedule 4.18.

Douglas Dynamics Finance Company

None.

Fisher, LLC

None

Schedule 4.13
(Real Estate Assets)

Douglas Dynamics Holdings, Inc.

None.

Douglas Dynamics, L.L.C.

4.13(i)

915 Riverview Drive
Johnson City, TN

7777 N. 73rd Street
Milwaukee, WI

50 Gordon Drive
Rockland, ME

4.13(ii)

None.

Douglas Dynamics Finance Company

None.

Fisher, LLC

None.

Schedule 4.14
(Environmental Matters)

Douglas Dynamics Holdings, Inc.

None.

Douglas Dynamics, L.L.C.

None.

Douglas Dynamics Finance Company

None.

Fisher, LLC

None.

Schedule 4.18
(Employee Matters)

Douglas Dynamics Holdings, Inc.

None.

Douglas Dynamics, L.L.C.

None.

Douglas Dynamics Finance Company

None.

Fisher, LLC

None.

Schedule 4.19
(Employee Benefit Plans)

Douglas Dynamics Holdings, Inc.

None.

Douglas Dynamics, L.L.C.

Retired/Former Employee Benefit Plans

Douglas Dynamics L.L.C. Insurance Coverage Policy for Retirees, as revised December 31, 2003.

Funding of Pension Plans

As of December 31, 2006, the present value of the aggregate benefit liabilities under the Douglas Dynamics LLC Salaried Pension Plan and the Douglas Dynamics LLC Pension Plan for Hourly Employees exceeded the aggregate current value of the assets under such plans by approximately $5.1 million.

Douglas Dynamics Finance Company

None.

Fisher, LLC

None.

Schedule 4.22
(Certain Existing Liens)

See Schedule 6.2.

Schedule 4.24
(Deposit Accounts)

Description	Bank Account Number	Loan Party	Depository Institution/ Contact Information
Main Operating Account, Concentration Account for all Controlled Disbursement Accounts, Sweep Account for Fisher and Western Lockbox		Douglas Dynamics, L.L.C.	
Accounts Payable Controlled Disbursement account for all DD locations		Douglas Dynamics, L.L.C.	
Flex Spending Claims Controlled Disbursement account for all DD locations		Douglas Dynamics, L.L.C.	
Medical Claims Controlled Disbursement account for all DD locations		Douglas Dynamics, L.L.C.	
Dental Claims Controlled Disbursement account for all DD locations		Douglas Dynamics, L.L.C.	
401(k) account		Douglas Dynamics, L.L.C.	
Payroll Clearing-WI		Douglas Dynamics, L.L.C.	
general account		Douglas Dynamics Holdings Inc.	
general account		Douglas Dynamics Finance Company	

Description	Bank Account Number	Loan Party	Depository Institution/ Contact Information
Payroll Clearing-ME		Fisher, LLC	
Payroll Clearing- TN		Douglas Dynamics, L.L.C.	

Schedule 6.1(f)
(Certain Indebtedness)

None.

Schedule 6.2
(Permitted Liens)

Delaware Secretary of State searched on 04/24/07. Secured Party: Hyster Credit Company, P.O. Box 27248, Tempe, AZ 85285-7248. File no. 2197519, 07/23/2002. One Hyster Model S30XM, One Hyster Model H40XM Lift Truck together with all attachments and accessories.

Delaware Secretary of State searched on 04/24/07. Secured Party: Hyster Credit Company, P.O. Box 4366, Portland, OR 97208. File no. 2200036, 07/29/2002. One Hyster Model S30XM, One Hyster Model H40XM Lift Truck together with all attachments and accessories.

Delaware Secretary of State searched on 04/24/07. Secured Party: Bystronic Inc., 185 Commerce Drive, Hauppauge, NY, 11788. File no. 6046680, 01/27/2006. One BYSTAR 4020-2 (4400 Watt) Job No. 1803.

Schedule 6.7
(Certain Investments)

None.

Schedule 6.12
(Certain Affiliate Transactions)

All transactions, including payments, in respect of the Amended and Restated Joint Management Services Agreement dated as of April 12, 2004.

CREDIT AND GUARANTY AGREEMENT

dated as of May 21, 2007

among

DOUGLAS DYNAMICS, L.L.C.
DOUGLAS DYNAMICS FINANCE COMPANY
FISHER, LLC
as Borrowers

DOUGLAS DYNAMICS, INC.,
as Guarantor,

THE BANKS AND FINANCIAL INSTITUTIONS LISTED HEREIN,
as Lenders,

CREDIT SUISSE SECURITIES (USA) LLC,
as Sole Bookrunner and Sole Lead Arranger,

WACHOVIA CAPITAL FINANCE CORPORATION (CENTRAL),
as Documentation Agent,

JPMORGAN CHASE BANK, N.A.,
as Syndication Agent and Collateral Agent

and

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH
as Administrative Agent

$60,000,000 Senior Secured Revolving Credit Facility

TABLE OF CONTENTS

CREDIT AND GUARANTY AGREEMENT, dated as of May 21, 2007 (the "**Agreement**"), by and among Douglas Dynamics, Inc., a Delaware corporation ("**Holdings**"), Douglas Dynamics, L.L.C., a Delaware limited liability company and a direct wholly-owned Subsidiary of Holdings (the "**Company**" or the "**Borrower Representative**"), Fisher, LLC, a Delaware limited liability company ("**Fisher**") and Douglas Dynamics Finance Company, a Delaware corporation ("**DD Finance**," and together with Fisher and the Borrower Representative, each a **"Borrower"** and collectively the "**Borrowers**") the banks and financial institutions having Revolving Loan Commitments or listed on the signature pages hereof (together with their respective successors and assigns, each individually referred to herein as a "**Lender**" and collectively as "**Lenders**"), Credit Suisse Securities (USA) LLC, as sole bookrunner and sole lead arranger (the "**Arranger**"), JPMorgan Chase Bank, N.A., as syndication agent (in such capacity, "**Syndication Agent**"), as Wachovia Capital Finance Corporation (Central), as documentation agent (in such capacity, "**Documentation Agent**"), JPMorgan Chase Bank, N.A., as collateral agent for the Lenders (in such capacity, the "**Collateral Agent**") and Credit Suisse AG, Cayman Islands Branch ("**Credit Suisse**") as administrative agent for the Lenders (in such capacity, "**Administrative Agent**").

RECITALS:

WHEREAS, the Borrower Representative has requested, and the Lenders have agreed, to extend certain credit facilities to the Borrowers on the terms and conditions of this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, such parties hereby agree as follows:

SECTION 1. DEFINITIONS AND INTERPRETATION

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

"**ABL Priority Collateral**" has the meaning assigned to that term in the Intercreditor Agreement.

"**Account Control Event**" means the occurrence and continuance of (i) any Event of Default, or (ii) any Liquidity Event (A) for which a Liquidity Event Cure Notice has not been properly delivered in accordance with Section 8.2 within three (3) days after the occurrence thereof, (B) for which a Liquidity Event Cure Notice was timely delivered and a Liquidity Event Cure did not timely occur in accordance with Section 8.2 or (C) for which no Liquidity Event Cure Notice is available. For purposes of this Agreement, the occurrence of an Account Control Event shall be deemed continuing at the Administrative Agent's or Collateral Agent's option (x) so long as such Event of Default exists, and/or (y) if the Account Control Event arises as a result of a Liquidity Event described in clause (ii) above, until Excess Availability is $6.0 million or more for thirty (30) consecutive days (unless the Account Control Event has ceased to exist as provided in Section 8.2), in which case an Account Control Event shall no longer be deemed to

be continuing for purposes of this Agreement; *provided that* a Account Control Event shall be deemed continuing (even if an Event of Default is no longer continuing and/or such Liquidity Event has ceased to exist for thirty (30) consecutive days) at all times after an Account Control Event has occurred and been discontinued on six (6) occasions after the Closing Date.

"**Account Debtor**" means, "Account Debtor," as such term is defined in the UCC as in effect on the date hereof in the State of New York.

"**Accounts**" means all "accounts", as such term is defined in the UCC as in effect on the date hereof in the State of New York, in which such Person now or hereafter has rights; provided, however, that for purposes of calculating the Borrowing Base, the term "Accounts" shall not include Excluded Deposit Accounts (as defined below).

"ACH" mean automated clearing house transfers.

"**Additional Co-Borrower**" shall mean any wholly-owned Domestic Subsidiary of a Borrower which may hereafter be approved by the Administrative Agent and the Collateral Agent in good faith and in the exercise of reasonable (from the perspective of a secured asset-based lender) business judgment which (a) is currently able to prepare all collateral reports in a comparable manner to the Borrowers' reporting procedures, (b) has executed and delivered to the Administrative Agent and the Collateral Agent such joinder agreements to this Agreement, contribution and set-off agreements and other Collateral Documents as the Administrative Agent or the Collateral Agent have reasonably requested and so long as each of the Administrative Agent and the Collateral Agent have received and approved, in their reasonable discretion, all UCC search results necessary to confirm the Collateral Agent's First Priority or Second Priority Lien, as applicable, on all of such Additional Co-Borrower's real, personal and mixed property (including Capital Stock).

"**Administrative Agent**" has the meaning assigned to that term in the preamble hereto.

"**Adjusted Eurodollar Rate**" means, for any Interest Rate Determination Date with respect to an Interest Period for a Eurodollar Rate Loan, the rate per annum obtained by dividing (i) (a) the rate per annum determined by the Administrative Agent by reference to the British Bankers' Association Interest Settlement Rates for deposits (for delivery on the first day of such period) with a term equivalent to such period in Dollars, determined as of approximately 11:00 a.m. (London, England time) on such Interest Rate Determination Date (as set forth by Bloomberg Information Service or any successor thereto or any other service selected by Administrative Agent which has been nominated by the British Bankers' Association as an authorized information vendor for the purpose of displaying such rates), or (b) in the event the rate referenced in the preceding clause (a) is not available, the rate per annum equal to the offered quotation rate to first class banks in the London interbank market by Credit Suisse for deposits (for delivery on the first day of the relevant period) in Dollars of amounts in same day funds comparable to the principal amount of the applicable Loan of Administrative Agent, in its capacity as a Lender, for which the Adjusted Eurodollar Rate is then being determined with maturities comparable to such period as of approximately 11:00 a.m. (London, England time) on

such Interest Rate Determination Date, by (ii) an amount equal to (a) one minus (b) the Applicable Reserve Requirement.

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

"**Affected Lender**" has the meaning assigned to that term in Section 2.17(b).

"**Affected Loans**" has the meaning assigned to that term in Section 2.17(b).

"**Affiliate**" means, as applied to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, that Person. For the purposes of this definition, "control" (including, with correlative meanings, the terms "controlling," "controlled by" and "under common control with"), as applied to any Person, means the possession, directly or indirectly, of the power (i) to vote 10% or more of the Securities having ordinary voting power for the election of directors of such Person or (ii) to direct or cause the direction of the management and policies of that Person, whether through the ownership of voting securities or by contract or otherwise.

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

"**Aggregate Amounts Due**" has the meaning assigned to that term in Section 2.16.

"**Aggregate Payments**" has the meaning assigned to that term in Section 7.2.

"**Agreement**" has the meaning assigned to that term in the preamble hereto.

"**Applicable Margin**" means a percentage, per annum, equal to (i) initially, for any Base Rate Loans, 0.50% and for any Eurodollar Rate Loans, 1.50%, and (ii) following the delivery of the Compliance Certificate in respect of Fiscal Year 2007, determined by reference to the applicable Performance Level in effect from time to time set forth below:

Performance Level	Level I	Level II
Base Rate Applicable Margin and Swing Line Applicable Margin	0.25%	0.50%
Eurodollar Rate Applicable Margin	1.25%	1.50%

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

"**Ares Group Investors**" means (i) the Ares Corporate Opportunities Fund, L.P. (the "**Ares Limited Partnership**"), (ii) ACOF Management, L.P., (iii) ACOF Operating Manager, L.P., (iv) Ares Management, Inc., (v) Ares Management LLC, (vi) any limited partners of any of the foregoing entities and (vii) partners, members, managing directors, officers or employees of any of those entities referenced in clauses (ii) through (v), provided that each Person set forth in clauses (vi) and (vii) shall only constitute an Ares Group Investor so long as it gives a proxy to, or otherwise agrees that it will vote in a manner consistent with, the Ares Limited Partnership (except to the extent otherwise required by ERISA or other applicable law) and the entity to which it is required to give a proxy to or otherwise vote consistently with continues to own Capital Stock in Parent.

"**Arranger**" has the meaning assigned to that term in the preamble hereto.

"**Asset Sale**" means a sale, lease or sub-lease (as lessor or sublessor), sale and leaseback, assignment, conveyance, transfer or other disposition to, or any exchange of property with, any Person (other than the Borrowers or any Guarantor Subsidiary), in one transaction or a series of transactions, of all or any part of Holdings', Company's, or any of its Subsidiaries' businesses, assets or properties of any kind, whether real, personal, or mixed and whether tangible or intangible, whether now owned or hereafter acquired, including, without limitation, the Capital Stock of any of Holdings' Subsidiaries, other than (i) inventory sold or leased in the ordinary course of business (excluding any such sales by operations or divisions discontinued or to be discontinued), (ii) equipment that is surplus, obsolete, worn-out, or no longer used or useful in the business of Holdings, Company or any of its Subsidiaries, (iii) leasehold interests that are no longer used or useful in the business of Holdings, Company or any of its Subsidiaries, (iv) dispositions, by means of trade-in, of equipment used in the ordinary course of business, so long as such equipment is replaced, substantially concurrently, by like-kind equipment in an effort to upgrade the Facilities of Company and its Subsidiaries, (v) Cash and Cash Equivalents used in a manner not prohibited by the Credit Documents or the Term Loan Documents, and (vi) sales of other assets for aggregate consideration of less than $1,000,000 with respect to any transaction or series of related transactions and less than $3,000,000 in the aggregate during any calendar year (provided, that for purposes of calculating the amounts set forth in this clause (vi),

any transactions or series of related transactions involving aggregate consideration of $50,000 or less may be excluded).

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

"**Attributable Indebtedness**" in respect of a sale and leaseback transaction means, at the time of determination, the present value of the obligation of the lessee for net rental payments during the remaining term of the lease included in such sale and leaseback transaction including any period for which such lease has been extended or may, at the option of the lessor, be extended. Such present value shall be calculated using a discount rate equal to the rate of interest implicit in such transaction, determined in accordance with GAAP.

"**Aurora Group Investors**" means (i) Aurora Equity Partners II L.P. and Aurora Overseas Equity Partners II, L.P. (the "**Limited Partnerships**"), (ii) Aurora Capital Partners II L.P. and Aurora Overseas Capital Partners II, L.P. (the "**General Partners**"), (iii) Aurora Advisors II LLC and Aurora Overseas Advisors, II, LDC (the "**Ultimate General Partners**"), (iv) any limited partners of the Limited Partnerships or any limited partners of the General Partners,provided that such limited partner gives a proxy to, or otherwise agrees that it will vote in a manner consistent with, the Limited Partnerships (except to the extent otherwise required by ERISA or other applicable law) or the General Partners, (v) any managing director or employee of Aurora Management Partners LLC, provided that such managing director or employee gives a proxy to, or otherwise agrees that he or she will vote in a manner consistent with the Limited Partnerships (except to the extent otherwise required by ERISA or other applicable law) or the General Partners, (vi) any member of the Advisory Board of Aurora Management Partners LLC, provided that such member gives a proxy to, or otherwise agrees that he or she will vote in a manner consistent with, the Limited Partnerships (except to the extent otherwise required by ERISA or other applicable law) or the General Partners, (vii) any Affiliate of Aurora Management Partners LLC, provided that such Affiliate gives a proxy to, or otherwise agrees that it will vote in a manner consistent with, the Limited Partnerships or the General Partners, and (viii) any investment fund or other entity controlled by or under common control with, any one or more of the Ultimate General Partners or Aurora Management Partners LLC or the principals that control any one or more of the Ultimate General Partners or Aurora Management Partners LLC; provided that each Person set forth in clauses (iv) through (viii) shall only constitute an Aurora Group Investor so long as the entity to which it is required to

give a proxy to or otherwise vote consistently with continues to own Capital Stock in Parent.

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

"**Average Daily Excess Availability**" means the average daily Excess Availability for the immediately preceding Fiscal Quarter.

EXHIBIT A to Amendment No. 1

COMPOSITE CREDIT AGREEMENT
(as amended by Amendment No. 1, dated as of April 16, 2010)

CREDIT AND GUARANTY AGREEMENT

dated as of May 21, 2007

among

DOUGLAS DYNAMICS, L.L.C.
DOUGLAS DYNAMICS FINANCE COMPANY
FISHER, LLC
as Borrowers

DOUGLAS DYNAMICS, INC.,
as Guarantor,

THE BANKS AND FINANCIAL INSTITUTIONS LISTED HEREIN,
as Lenders,

CREDIT SUISSE SECURITIES (USA) LLC,
as Sole Bookrunner and Sole Lead Arranger,

WACHOVIA CAPITAL FINANCE CORPORATION (CENTRAL),
as Documentation Agent,

JPMORGAN CHASE BANK, N.A.,
as Syndication Agent and Collateral Agent

and

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH
as Administrative Agent

$60,000,000 Senior Secured Revolving Credit Facility

TABLE OF CONTENTS

CREDIT AND GUARANTY AGREEMENT

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RECITALS:

WHEREAS, the Borrower Representative has requested, and the Lenders have agreed, to extend certain credit facilities to the Borrowers on the terms and conditions of this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, such parties hereby agree as follows:

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

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be continuing for purposes of this Agreement; *provided that* a Account Control Event shall be deemed continuing (even if an Event of Default is no longer continuing and/or such Liquidity Event has ceased to exist for thirty (30) consecutive days) at all times after an Account Control Event has occurred and been discontinued on six (6) occasions after the Closing Date.

"**Account Debtor**" means, "Account Debtor," as such term is defined in the UCC as in effect on the date hereof in the State of New York.

"**Accounts**" means all "accounts", as such term is defined in the UCC as in effect on the date hereof in the State of New York, in which such Person now or hereafter has rights; provided, however, that for purposes of calculating the Borrowing Base, the term "Accounts" shall not include Excluded Deposit Accounts (as defined below).

"ACH" mean automated clearing house transfers.

"**Additional Co-Borrower**" shall mean any wholly-owned Domestic Subsidiary of a Borrower which may hereafter be approved by the Administrative Agent and the Collateral Agent in good faith and in the exercise of reasonable (from the perspective of a secured asset-based lender) business judgment which (a) is currently able to prepare all collateral reports in a comparable manner to the Borrowers' reporting procedures, (b) has executed and delivered to the Administrative Agent and the Collateral Agent such joinder agreements to this Agreement, contribution and set-off agreements and other Collateral Documents as the Administrative Agent or the Collateral Agent have reasonably requested and so long as each of the Administrative Agent and the Collateral Agent have received and approved, in their reasonable discretion, all UCC search results necessary to confirm the Collateral Agent's First Priority or Second Priority Lien, as applicable, on all of such Additional Co-Borrower's real, personal and mixed property (including Capital Stock).

"**Administrative Agent**" has the meaning assigned to that term in the preamble hereto.

"**Adjusted Eurodollar Rate**" means, for any Interest Rate Determination Date with respect to an Interest Period for a Eurodollar Rate Loan, the rate per annum obtained by dividing (i) (a) the rate per annum determined by the Administrative Agent by reference to the British Bankers' Association Interest Settlement Rates for deposits (for delivery on the first day of such period) with a term equivalent to such period in Dollars, determined as of approximately 11:00 a.m. (London, England time) on such Interest Rate Determination Date (as set forth by Bloomberg Information Service or any successor thereto or any other service selected by Administrative Agent which has been nominated by the British Bankers' Association as an authorized information vendor for the purpose of displaying such rates), or (b) in the event the rate referenced in the preceding clause (a) is not available, the rate per annum equal to the offered quotation rate to first class banks in the London interbank market by Credit Suisse for deposits (for delivery on the first day of the relevant period) in Dollars of amounts in same day funds comparable to the principal amount of the applicable Loan of Administrative Agent, in its capacity as a Lender, for which the Adjusted Eurodollar Rate is then being determined with maturities comparable to such period as of approximately 11:00 a.m. (London, England time) on

such Interest Rate Determination Date, by (ii) an amount equal to (a) one minus (b) the Applicable Reserve Requirement.

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

any property of Holdings or any of its Subsidiaries.

"**Affected Lender**" has the meaning assigned to that term in Section 2.17(b).

"**Affected Loans**" has the meaning assigned to that term in Section 2.17(b).

"**Affiliate**" means, as applied to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, that Person. For the purposes of this definition, "control" (including, with correlative meanings, the terms "controlling," "controlled by" and "under common control with"), as applied to any Person, means the possession, directly or indirectly, of the power (i) to vote 10% or more of the Securities having ordinary voting power for the election of directors of such Person or (ii) to direct or cause the direction of the management and policies of that Person, whether through the ownership of voting securities or by contract or otherwise.

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

"**Aggregate Amounts Due**" has the meaning assigned to that term in Section 2.16.

"**Aggregate Payments**" has the meaning assigned to that term in Section 7.2.

"**Agreement**" has the meaning assigned to that term in the preamble hereto.

"**Applicable Margin**" means a percentage, per annum, equal to (i) initially, for any Base Rate Loans, 0.50% and for any Eurodollar Rate Loans, 1.50%, and (ii) following the delivery of the Compliance Certificate in respect of Fiscal Year 2007, determined by reference to the applicable Performance Level in effect from time to time set forth below:

Performance Level	Level I	Level II
Base Rate Applicable Margin and Swing Line Applicable Margin	0.25%	0.50%
Eurodollar Rate Applicable Margin	1.25%	1.50%

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

"**Ares Group Investors**" means (i) the Ares Corporate Opportunities Fund, L.P. (the "**Ares Limited Partnership**"), (ii) ACOF Management, L.P., (iii) ACOF Operating Manager, L.P., (iv) Ares Management, Inc., (v) Ares Management LLC, (vi) any limited partners of any of the foregoing entities and (vii) partners, members, managing directors, officers or employees of any of those entities referenced in clauses (ii) through (v), provided that each Person set forth in clauses (vi) and (vii) shall only constitute an Ares Group Investor so long as it gives a proxy to, or otherwise agrees that it will vote in a manner consistent with, the Ares Limited Partnership (except to the extent otherwise required by ERISA or other applicable law) and the entity to which it is required to give a proxy to or otherwise vote consistently with continues to own Capital Stock in Parent.

"**Arranger**" has the meaning assigned to that term in the preamble hereto.

"**Asset Sale**" means a sale, lease or sub-lease (as lessor or sublessor), sale and leaseback, assignment, conveyance, transfer or other disposition to, or any exchange of property with, any Person (other than the Borrowers or any Guarantor Subsidiary), in one transaction or a series of transactions, of all or any part of Holdings', Company's, or any of its Subsidiaries' businesses, assets or properties of any kind, whether real, personal, or mixed and whether tangible or intangible, whether now owned or hereafter acquired, including, without limitation, the Capital Stock of any of Holdings' Subsidiaries, other than (i) inventory sold or leased in the ordinary course of business (excluding any such sales by operations or divisions discontinued or to be discontinued), (ii) equipment that is surplus, obsolete, worn-out, or no longer used or useful in the business of Holdings, Company or any of its Subsidiaries, (iii) leasehold interests that are no longer used or useful in the business of Holdings, Company or any of its Subsidiaries, (iv) dispositions, by means of trade-in, of equipment used in the ordinary course of business, so long as such equipment is replaced, substantially concurrently, by like-kind equipment in an effort to upgrade the Facilities of Company and its Subsidiaries, (v) Cash and Cash Equivalents used in a manner not prohibited by the Credit Documents or the Term Loan Documents, and (vi) sales of other assets for aggregate consideration of less than $1,000,000 with respect to any transaction or series of related transactions and less than $3,000,000 in the aggregate during any calendar year (provided, that for purposes of calculating the amounts set forth in this clause (vi),

any transactions or series of related transactions involving aggregate consideration of $50,000 or less may be excluded).

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

"**Attributable Indebtedness**" in respect of a sale and leaseback transaction means, at the time of determination, the present value of the obligation of the lessee for net rental payments during the remaining term of the lease included in such sale and leaseback transaction including any period for which such lease has been extended or may, at the option of the lessor, be extended. Such present value shall be calculated using a discount rate equal to the rate of interest implicit in such transaction, determined in accordance with GAAP.

"**Aurora Group Investors**" means (i) Aurora Equity Partners II L.P. and Aurora Overseas Equity Partners II, L.P. (the "**Limited Partnerships**"), (ii) Aurora Capital Partners II L.P. and Aurora Overseas Capital Partners II, L.P. (the "**General Partners**"), (iii) Aurora Advisors II LLC and Aurora Overseas Advisors, II, LDC (the "**Ultimate General Partners**"), (iv) any limited partners of the Limited Partnerships or any limited partners of the General Partners,provided that such limited partner gives a proxy to, or otherwise agrees that it will vote in a manner consistent with, the Limited Partnerships (except to the extent otherwise required by ERISA or other applicable law) or the General Partners, (v) any managing director or employee of Aurora Management Partners LLC, provided that such managing director or employee gives a proxy to, or otherwise agrees that he or she will vote in a manner consistent with the Limited Partnerships (except to the extent otherwise required by ERISA or other

applicable law) or the General Partners, (vi) any member of the Advisory Board of Aurora Management Partners LLC, provided that such member gives a proxy to, or otherwise agrees that he or she will vote in a manner consistent with, the Limited Partnerships (except to the extent otherwise required by ERISA or other applicable law) or the General Partners, (vii) any Affiliate of Aurora Management Partners LLC, provided that such Affiliate gives a proxy to, or otherwise agrees that it will vote in a manner consistent with, the Limited Partnerships or the General Partners, and (viii) any investment fund or other entity controlled by or under common control with, any one or more of the Ultimate General Partners or Aurora Management Partners LLC or the principals that control any one or more of the Ultimate General Partners or Aurora Management Partners LLC; provided that each Person set forth in clauses (iv) through (viii) shall only constitute an Aurora Group Investor so long as the entity to which it is required to give a proxy to or otherwise vote consistently with continues to own Capital Stock in Parent.

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

"**Average Daily Excess Availability**" means the average daily Excess Availability for the immediately preceding Fiscal Quarter.

"**Banking Services Agreement**" means each and any of the following bank services provided to any Credit Party by any Lender Counterparty pursuant to a Banking Services Agreement including: (a) commercial credit cards, (b) stored value cards and (c) treasury management services (including, without limitation, controlled disbursement, automated clearinghouse transactions, return items, overdrafts and interstate depository network services).

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

"**Base Rate**" means, for any day, a rate per annum equal to the greater of (i) the Prime Rate in effect on such day and (ii) the Federal Funds Effective Rate in effect on such day plus ½ of 1%.

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

"**Blocked Account**" means any Deposit Account subject to a Blocked Account Agreement.

"**Blocked Account Agreement**" means an account control agreement on terms reasonably satisfactory to the Collateral Agent.

"**Blocked Account Bank**" means each bank with whom a Blocked Account Agreement has been, or is required to be, executed in accordance with the terms hereof.

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

"**Borrower**" means the Borrower Representative, DD Finance, Fischer andany Additional Co-Borrower that may become party hereto.

"**Borrowing Base**" means at any time, an amount equal to the lesser of:

(a) the sum of, without duplication:

(i) the face amount of Eligible Accounts of Borrowers multiplied by the advance rate of 85%,plus

(ii) the lesser of (A) the advance rate of 70% of the Cost of Eligible Inventory of Borrowers, or (B) the advance rate of 85% of the product of the Net Recovery Cost Percentage multiplied by the Cost of Eligible Inventory of Borrowers, plus

(iii) the balance of Cash in Deposit Accounts subject to a Blocked Account Agreement;minus

(iv) effective immediately upon notification thereof to Borrower Representative by the Collateral Agent or the Administrative Agent, any Reserves established from time to time by the Collateral Agent or the Administrative Agent in good faith and in the exercise of reasonable (from the perspective of a secured asset-based lender) business judgment;

The Borrowing Base at any time shall (i) be determined by reference to the most recent Borrowing Base Certificate theretofore delivered to the Collateral Agent and the Administrative Agent with such adjustments as Administrative Agent or Collateral Agent deem appropriate in good faith and in the exercise of reasonable (from the perspective of a secured asset-based lender) business judgment to assure that the Borrowing Base is calculated in accordance with the terms of this Agreement and (ii) be computed no less than monthly; provided that the Borrower Representative may compute the Borrowing Base more frequently (but in no event, absent consent from the Collateral Agent, more frequently than weekly), which Borrowing Base shall become effective upon delivery of a Borrowing Base Certificate to the Administrative Agent and the Collateral Agent; and

(b) the maximum amount of secured Indebtedness under the Credit Agreement (as defined in the Senior Note Indenture) that is permitted by Sections 4.7 and 4.8 of the Senior Note Indenture.

The Administrative Agent or the Collateral Agent may, in good faith and in the exercise of their respective reasonable (from the perspective of a secured asset-based lender) business judgment adjust Reserves.

"**Borrowing Base Certificate**" means an Officers' Certificate from Borrower Representative, substantially in the form of (or in such other form as may, from time to time, be mutually agreed upon by Borrower Representative, Collateral Agent and Administrative Agent), and containing the information prescribed by Exhibit L, delivered to the Administrative Agent and the Collateral Agent setting forth Borrower Representative's calculation of the Borrowing Base.

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

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

"**Capital Stock**" means any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent

ownership interests in a Person (other than a corporation), including, without limitation, partnership interests and membership interests, and any and all warrants, rights or options to purchase or other arrangements or rights to acquire any of the foregoing.

"**Cash**" means money, currency or a credit balance in any demand or deposit account.

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

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

"**Change of Control**" means, at any time, (i) any Person or "group" (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act) other than Sponsor beneficially owns, directly or indirectly, more than 35%, on a fully diluted basis, of the outstanding Capital Stock (measured only by voting power) of Holdings entitled (without regard to the occurrence of any contingency) to vote for the election of members of the board of directors (or similar governing body) of Holdings, unless Sponsor beneficially owns and controls, on a fully diluted basis, more of the outstanding Capital Stock (measured only by voting power) of Holdings entitled (without regard to the occurrence of any contingency) to vote for the election of members of the board of directors (or similar governing body) of Holdings than any other Person or "group" (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act); or (ii) Holdings shall cease to beneficially own and control 100% on a fully diluted basis of the economic and voting interests in the Capital Stock of Company.

"**Change in Law**" has the meaning assigned to that term in Section 2.18(a).

"**Closing Date**" means May 21, 2007.

"**Collateral**" means, collectively, all of the real, personal and mixed property (including Capital Stock) in which Liens are purported to be granted pursuant to the Collateral Documents as security for the Obligations.

"**Collateral Access Agreement**" shall mean a Collateral Access Agreement, substantially in the form of Exhibit M, or such other form as may reasonably be acceptable to the Administrative Agent and Collateral Agent.

"**Collateral Agent**" has the meaning assigned to that term in the preamble hereto.

"**Collateral Documents**" means the Pledge and Security Agreement, the Mortgages, the Blocked Account Agreements, the Intercreditor Agreement and all other instruments, documents and agreements delivered by any Credit Party pursuant to this Agreement or any of the other Credit Documents in order to grant to Collateral Agent, for the benefit of Lenders, a Lien on any real, personal or mixed property of that Credit Party as security for the Obligations (or to perfect any Liens so granted).

"**Collection Account**" has the meaning assigned to such term in Section 5.15(a).

"**Commitment**" means any Revolving Loan Commitment.

"**Company**" has the meaning assigned to that term in the preamble hereto.

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

"**Consolidated Adjusted EBITDA**" means, for any period, an amount determined for Company and its Subsidiaries on a consolidated basis equal to the total of (a) Consolidated Net Income, plus (b) the sum, without duplication, of each of the following to the extent deducted in the calculation of Consolidated Net Income for such period (i) Consolidated Interest Expense and non-Cash interest expense, (ii) provisions for taxes based on income, (iii) total depreciation expense, (iv) total amortization expense (including amortization of goodwill, other intangibles, and financing fees and expenses), (v) non-cash impairment charges, (vi) non-cash expenses resulting from the grant of stock and stock options and other compensation to management personnel of Company and its Subsidiaries pursuant to a written incentive plan or agreement, (vii) other non-Cash items that are unusual or otherwise non-recurring items, (viii) expenses or fees under the Management Services Agreement, as in effect on December 16, 2004 including any payments made under the Management Services Agreement and comprising all or any portion of the Qualifying IPO Payment, (ix) any extraordinary losses and non-recurring charges during any period (including severance, relocation costs, one-time compensation charges and losses or charges associated with Interest Rate Agreements), (x) restructuring charges or reserves (including costs related to closure of Facilities), (xi) any transaction costs incurred in connection with the issuance of Securities or any refinancing transaction, in each case whether or not such transaction is consummated (xii) any fees and expensed related to any Permitted Acquisitions and (xiii) fees, expenses and other transaction costs incurred by Company and its Subsidiaries during such period in connection with the transactions contemplated by the First Amendment, the Second Amendment to Term Loan Facility and the Qualifying IPO plus (c) solely for the purpose of determining compliance

with the financial covenant set forth in Section 6.8(a), and not for any other purpose, the Financial Performance Covenant Cure Amountminus (d) the sum, without duplication, of (i) non-Cash items increasing Consolidated Net Income for such period that are unusual or otherwise non-recurring items, (ii) cash payments made during such period reducing reserves or liabilities for accruals made in prior periods but only to the extent such reserves or accruals were added back to "Consolidated Adjusted EBITDA" in a prior period pursuant to clause (b)(vii) or (b)(viii) above, and (iii) Restricted Payments made during such period to Holdings pursuant to Section 6.5(c)(i) (other than any such Restricted Payments made to Holdings pursuant to Section 6.5(c)(i) for the purpose of paying fees, expenses and other transaction costs paid in cash during such period in connection with the transactions contemplated by the First Amendment, the Second Amendment to Term Loan Facility and the Qualifying IPO).

"**Consolidated Capital Expenditures**" means, for any period, the aggregate of all expenditures of Company and its Subsidiaries during such period determined on a consolidated basis that, in accordance with GAAP, are or should be included in "purchase of property and equipment" or similar items reflected in the consolidated statement of cash flows of Company and its Subsidiaries, but excluding expenditures constituting the purchase price for Permitted Acquisitions and amounts constituting Net Asset Sale Proceeds and Net Insurance/Condemnation Proceeds which are reinvested in the business of Company and its Subsidiaries in accordance with Section 2.13(a) or Section 2.13(b), respectively, by Company and its Subsidiaries during such period.

"**Consolidated Coverage Ratio**" on any date of determination (the "**Transaction Date**") means the ratio, on a *pro forma* basis, of (a) the aggregate amount of Consolidated Adjusted EBITDA for the Test Period to (b) the aggregate Consolidated Fixed Charges during the Test Period; *provided*, that for purposes of such calculation: (1) Permitted Acquisitions which occurred during the Test Period or subsequent to the Test Period and on or prior to the Transaction Date shall be assumed to have occurred on the first day of the Test Period, (2) transactions giving rise to the need to calculate the Consolidated Coverage Ratio and the application of the proceeds therefrom (except as otherwise provided in this definition) shall be assumed to have occurred on the first day of the Test Period, (3) the incurrence of any Indebtedness (including the issuance of any Disqualified Capital Stock) during the Test Period or subsequent to the Test Period and on or prior to the Transaction Date (and the application of the proceeds therefrom to the extent used to refinance or retire other Indebtedness) (other than ordinary working capital borrowings) shall be assumed to have occurred on the first day of the Test Period, (4) the permanent repayment of any Indebtedness (including the redemption of any Disqualified Capital Stock) during the Test Period or subsequent to the Test Period and on or prior to the Transaction Date (other than ordinary working capital borrowings) shall be assumed to have occurred on the first day of the Test Period, (5) the Consolidated Fixed Charges attributable to interest on any Indebtedness or dividends on any Disqualified Capital Stock bearing a floating interest (or dividend) rate shall be computed on a *pro forma* basis as if the average rate in effect from the beginning of the Test Period to the Transaction Date had been the applicable rate for the entire period, unless Company or any of its Subsidiaries is a party to a Hedge Agreement (which shall remain in effect for the 12-month period immediately following the Transaction Date) that has the effect of fixing the interest rate on the date of computation, in which case such rate (whether higher or lower) shall be used, and (6) amounts attributable to operations or businesses permanently discontinued or disposed of prior to the Transaction Date,

shall be excluded, except, in the case of a determination of Consolidated Fixed Charges, only to the extent that the obligations giving rise to such Consolidated Fixed Charges would no longer be obligations contributing to Consolidated Fixed Charges subsequent to the Transaction Date.

"**Consolidated Fixed Charges**" means, for any period, the sum, without duplication, of the amounts determined for Company and its Subsidiaries on a consolidated basis equal to (i) Consolidated Interest Expense for such period, (ii) scheduled payments for such period of principal on Consolidated Total Debt, (iii) Consolidated Capital Expenditures for such period other than those financed with secured Indebtedness permitted by Sections 6.1 and 6.2 or made or incurred pursuant to Section 6.8(b)(ii), (iv) the portion of taxes based on income actually paid in cash during such period by Company or any of its Subsidiaries whether for such period or any other period and (v) Restricted Payments permitted under Section 6.5(c)(iii) and which are paid in cash during such period.

"**Consolidated Interest Expense**" means, for any period, (i) total interest expense (including that portion attributable to Capital Leases in accordance with GAAP and capitalized interest) payable in cash of Company and its Subsidiaries on a consolidated basis with respect to all outstanding Indebtedness of Company and its Subsidiaries, including all commissions, discounts and other fees and charges owed with respect to letters of credit and net costs under Interest Rate Agreements, but excluding, however, any amounts referred to in Section 2.10(d) payable on or before the Closing Date and amounts with respect to the termination of Interest Rate Agreements entered into within 90 days of the Closing Date, minus (ii) the aggregate amount of interest income of Company and its Subsidiaries during such period paid in cash.

"**Consolidated Net Income**" means, for any period, (i) the net income (or loss) of Company and its Subsidiaries on a consolidated basis for such period taken as a single accounting period determined in conformity with GAAP, minus (ii) (a) the income (or loss) of any Person (other than a Subsidiary of Company) in which any other Person (other than Company or any of its Subsidiaries) has a joint interest, except to the extent of the amount of dividends or other distributions actually paid to Company or any of its Subsidiaries by such Person during such period, (b) the income (or loss) of any Person accrued prior to the date it becomes a Subsidiary of Company or is merged into or consolidated with Company or any of its Subsidiaries or that Person's assets are acquired by Company or any of its Subsidiaries, (c) the income of any Subsidiary of Company to the extent that the declaration or payment of dividends or similar distributions by that Subsidiary of that income is not at the time permitted by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Subsidiary, (d) any after-tax gains or losses attributable to Asset Sales or returned surplus assets of any Pension Plan, and (e) (to the extent not included in clauses (a) through (d) above) any net extraordinary gains or net extraordinary losses.

"Consolidated Secured Debt" means, as at any date of determination, the Consolidated Total Debtof Company and its Subsidiaries determined on a consolidated basis (and without duplication) in accordance with GAAP that is secured by Liens on any of the assets of the Company or any of its Subsidiaries.

"**Consolidated Total Debt**" means, as at any date of determination, the aggregate stated balance sheet amount of all Indebtedness of Company and its Subsidiaries determined on a consolidated basis in accordance with GAAP; provided, that the amount of revolving Indebtedness to be included at the date of determination shall be equal to the average of the balances of such revolving Indebtedness as of the end of each of the prior four calendar quarters (except that with respect to the first four calendar quarters after the Closing Date, the amount of revolving Indebtedness to be included shall be based on the average of the quarter end balances from the Closing Date through the date of determination).

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

"**Contributing Guarantors**" has the meaning assigned to that term in Section 7.2.

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

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

"**Cost**" means, as determined by Collateral Agent in good faith, with respect to Inventory, the lower of (a) landed cost computed on a first-in first-out basis in accordance with GAAP or (b) market value; provided, that for purposes of the calculation of the Borrowing Base, (i) the Cost of the Inventory shall not include: (A) the portion of the cost of Inventory equal to the profit earned by any Affiliate on the sale thereof to any Credit Party or (B) write-ups or write-downs in cost with respect to currency exchange rates, and (ii) notwithstanding anything to the contrary contained herein, the cost of the Inventory shall be computed in the same manner and consistent with the most recent Inventory Appraisal which has been received and approved by Collateral Agent in its reasonable discretion.

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

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

"**Credit Document**" means any of this Agreement, the Notes, if any, the Collateral Documents, any documents or certificates executed by Borrower

Representative in favor of Issuing Bank relating to Letters of Credit, and all other documents, instruments or agreements executed and delivered by a Credit Party for the benefit of any Agent, Issuing Bank or any Lender in connection herewith.

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

"**Credit Party**" means each Person (other than any Agent, Issuing Bank or any Lender or any other representative thereof) from time to time party to a Credit Document.

"**Cumulative Interest Expense**" means the aggregate amount (without duplication and determined in each case in accordance with GAAP) of (A) interest expensed or capitalized, paid, accrued, or scheduled to be paid or accrued (including, in accordance with the following sentence, interest attributable to Capital Leases and Attributable Indebtedness) of the Company and its Subsidiaries during such period, including (I) amortization of debt issuance costs, original issue discount, debt discounts or premium and other financing fees and expenses and non-cash interest payments or accruals on any Indebtedness, (II) the interest portion of all deferred payment obligations of the Company and its Subsidiaries, and (III) all commissions, discounts and other fees and charges owed by the Company and its Subsidiaries with respect to bankers' acceptances and letters of credit financings and Hedge Agreements, in each case to the extent attributable to such period, and (B) the amount of all cash dividends paid by the Company or any of its Subsidiaries in respect of preferred stock (other than by Subsidiaries of the Company to the Company or its wholly owned Subsidiaries).

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

"**Current Twelve-Month Period**" has the meaning assigned to such term in Section 8.3.

"**DD Finance**" has the meaning assigned to that term in the preamble.

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

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

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

"**Defaulting Lender**" has the meaning assigned to that term in Section 2.21.

"**Defaulted Loan**" has the meaning assigned to that term in Section 2.21.

"**Deposit Account**" means each checking or other demand deposit account maintained by any of the Credit Parties other than any Excluded Deposit Accounts. All funds in each Deposit Account shall be conclusively presumed to be Collateral and proceeds of Collateral and the Agents and the Lenders shall have no duty to inquire as to the source of the amounts on deposit in any Deposit Account.

"**Disqualified Capital Stock**" means with respect to any Person, (a) Capital Stock of such Person that, by its terms or by the terms of any security into which it is convertible, exercisable or exchangeable, is, or upon the happening of an event or the passage of time or both would be, required to be redeemed or repurchased including at the option of the holder thereof by such Person or any of its Subsidiaries, in whole or in part, on or prior to 91 days following the Maturity Date and (b) any Capital Stock of any Subsidiary of such Person other than any common equity with no preferences, privileges, and no redemption or repayment provisions. Notwithstanding the foregoing, any Capital Stock of the Company, DD Finance or Fisher that would constitute Disqualified Capital Stock solely because the holders thereof have the right to require the Company, DD Finance or Fischer to repurchase such Capital Stock upon the occurrence of a change of control or an asset sale shall not constitute Disqualified Capital Stock if the terms of such Capital Stock provide that the Company, DD Finance or Fisher may not repurchase or redeem any such Capital Stock pursuant to such provisions prior to the prepayment of the Loans as are required by this Agreement.

"**Documentation Agent**" has the meaning assigned to that term in the preamble hereto.

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

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

"**Eligible Accounts**" has the meaning assigned to such term in Section 2.11(a).

"**Eligible Assignee**" means (i) any Lender, any Affiliate of any Lender and any Related Fund (any two or more Related Funds being treated as a single Eligible Assignee for all purposes hereof), and Sponsor and any fund or account affiliated with Sponsor (provided that, none of the Ares Limited Partnership, the Limited Partnerships, and to the extent holding any Capital Stock in Holdings, any other Ares Group Investor or Aurora Group Investor, shall be deemed to be a "Lender" for purposes of voting on any matters (including the granting of any consents or waivers) with respect to any of the Credit Documents) and (ii) any commercial bank, insurance company, investment or mutual fund or other entity that is an "accredited investor" (as defined in Regulation D under the Securities Act) and which extends credit or buys loans as one of its businesses; provided, no Affiliate of Holdings (other than any existing Lender, Affiliate of such Lender, Sponsor or any fund or account affiliated with Sponsor) shall be an Eligible Assignee.

"**Eligible Inventory**" has the meaning assigned to such term in Section 2.11(b).

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

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

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

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

"**ERISA Affiliate**" means, as applied to any Person on or after the date of the closing of the transactions contemplated by the Purchase Agreement, (i) any corporation which is a member of a controlled group of corporations within the meaning of Section 414(b) of the Internal Revenue Code of which that Person is a member; (ii) any trade or business (whether or not incorporated) which is a member of a group of trades or businesses under common control within the meaning of Section 414(c) of the Internal Revenue Code of which that Person is a member; and (iii) any member of an affiliated service group within the meaning of Section 414(m) or (o) of the Internal Revenue Code of which that Person, any corporation described in clause (i) above or any trade or business described in clause (ii) above is a member.

"**ERISA Event**" means (i) a "reportable event" within the meaning of Section 4043(c) of ERISA and the regulations issued thereunder with respect to any Pension Plan (excluding those for which the provision for 30-day notice to the PBGC has been waived by regulation); (ii) the failure to meet the minimum funding standard of Section 412 of the Internal Revenue Code with respect to any Pension Plan (whether or not waived in accordance with Section 412(d) of the Internal Revenue Code) or the failure to make by its due date a required installment under Section 412(m) of the Internal Revenue Code with respect to any Pension Plan; (iii) the provision by the administrator of any Pension Plan pursuant to Section 4041(a)(2) of ERISA of a notice of intent to terminate such plan in a distress termination described in Section 4041(c) of ERISA; (iv) the withdrawal by Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates from any Pension Plan with two or more contributing sponsors or the termination of any such Pension Plan resulting in liability to Holdings, any of its Subsidiaries or any of their respective Affiliates pursuant to Section 4063 or 4064 of ERISA; (v) the institution by the PBGC of proceedings to terminate any Pension Plan; (vi) the imposition, or the

occurrence of any events or condition that could reasonably be expected to result in the imposition, of liability on Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates pursuant to Section 4062(e) or 4069 of ERISA or by reason of the application of Section 4212(c) of ERISA; (vii) the occurrence of an act or omission which could give rise to the imposition on Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates of fines, penalties, taxes or related charges under Chapter 43 of the Internal Revenue Code or under Section 409, Section 502(c), (i) or (l), or Section 4071 of ERISA in respect of any Employee Benefit Plan (which fines, penalties, taxes or related charges, for purposes of Section 4.18, shall be material); (viii) the assertion of a material claim (other than routine claims for benefits) against any Employee Benefit Plan or the assets thereof, or against Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates in connection with any Employee Benefit Plan; (ix) receipt from the Internal Revenue Service of notice of the failure of any Pension Plan (or any other Employee Benefit Plan intended to be qualified under Section 401(a) of the Internal Revenue Code) to qualify under Section 401(a) of the Internal Revenue Code, or the failure of any trust forming part of any Pension Plan to qualify for exemption from taxation under Section 501(a) of the Internal Revenue Code; or (x) the imposition of a Lien pursuant to Section 401(a)(29) or 412(n) of the Internal Revenue Code or pursuant to ERISA with respect to any Pension Plan.

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

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

"**Excess Availability**" means, at any time, (a) the lesser of (i) the aggregate Revolving Loan Commitments of all of the Lenders and (ii) the Borrowing Base on the date of determination *less* (b) all outstanding Loans and Letter of Credit Usage.

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

"**Excluded Deposit Accounts**" means, collectively, (a) Deposit Accounts established solely for the purpose of funding payroll and trust accounts and funded solely with amounts necessary to cover then outstanding payroll liabilities and amounts required to be retained in such trust accounts, as well as minimum balance requirements; (b) Deposit Accounts with amounts on deposit that, when aggregated with the amounts on deposit in all other Deposit Accounts for which a Control Agreement has not been obtained (other than those specified in clause (a) and (c)), do not at any time exceed $4,000,000; (c) Deposit Accounts, with amounts on deposit which in the aggregate that do not at any time exceed $1,000,000, held at a financial institution that is not, for United Stated federal income tax purposes (i) an individual who is a citizen or resident of the United States or (ii) a corporation, partnership or other entity treated as a corporation or partnership created or organized in or under the laws of the United States, or any political subdivision thereof; (d) zero balance disbursement accounts; and (e) Deposit Accounts, with amounts on deposit which in the aggregate do not at any time exceed $500,000, the sole proceeds of which are funds received by a Loan Party from credit card sales; provided that, in each of the foregoing cases, if reasonably requested by the Collateral Agent or the

Administrative Agent, the Borrower Representative shall provide such Agent with periodic updates of the account numbers and names of all financial institutions where such Deposit Accounts are maintained.

"**Existing Credit Agreement**" means the Amended and Restated Credit and Guaranty Agreement dated as of December 16, 2004, by and among Holdings, the Borrower Representative, certain subsidiaries of the Borrower Representative as guarantors and Credit Suisse as administrative agent, as previously amended, restated, amended and restated, supplemental or modified prior to the Closing Date.

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

"**Fair Share**" has the meaning assigned to that term in Section 7.2.

"**Fair Share Contribution Amount**" has the meaning assigned to that term in Section 7.2.

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

"**Financial Performance Covenant**" has the meaning assigned to such term in Section 8.3.

"**Financial Performance Covenant Cure Amount**" has the meaning assigned to such term in Section 8.3.

"**Financial Performance Covenant Cure Notice**" has the meaning assigned to such term in Section 8.3.

"**Financial Performance Covenant Cure Right**" has the meaning assigned to such term in Section 8.3.

"**Financial Plan**" has the meaning assigned to that term in Section 5.1(i).

"**First Amendment**" means Amendment No. 1 to Credit and Guaranty Agreement, dated as of April 16, 2010 among Holdings, the Company, Fisher, DD Finance and the Lenders party thereto.

"**First Amendment Effective Date**" means the date on which the First Amendment became effective in accordance with its terms.

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

"**Fiscal Quarter**" means a fiscal quarter of any Fiscal Year.

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

"**Fisher**" has the meaning assigned to that term in the preamble.

"**Fixed Charge Coverage Compliance Certificate**" means a Compliance Certificate substantially in the form of Exhibit O.

"**Fixed Charge Coverage Ratio**" means the ratio of (i) the aggregate amount of Consolidated Adjusted EBITDA for the Test Period, to (ii) the aggregate Consolidated Fixed Charges during the Test Period.

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

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

"**Funding Default**" has the meaning assigned to that term in Section 2.21.

"**Funding Guarantors**" has the meaning assigned to that term in Section 7.2.

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

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

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

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

"**Grantor**" has the meaning assigned to that term in the Pledge and Security Agreement.

"**Guaranteed Obligations**" has the meaning assigned to that term in Section 7.1.

"**Guarantor**" means each of (i) Holdings (ii) each Domestic Subsidiary of Holdings (other than any Domestic Subsidiary that is a Borrower) (iii) to the extent no adverse tax consequences to Company would result therefrom, each Foreign Subsidiary of Holdings.

"**Guarantor Subsidiary**" means each Guarantor other than Holdings.

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

"**Hazardous Materials**" means any chemical, material, waste or substance, exposure to which is prohibited, limited or regulated by any Governmental Authority.

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

"**Hedge Agreement**" means an Interest Rate Agreement or a Currency Agreement entered into with a Lender Counterparty.

"**Highest Lawful Rate**" means the maximum lawful interest rate, if any, that at any time or from time to time may be contracted for, charged, or received under the laws applicable to any Lender which are presently in effect or, to the extent allowed by law, under such applicable laws which may hereafter be in effect and which allow a higher maximum nonusurious interest rate than applicable laws now allow.

"**Holdings**" has the meaning assigned to that term in the preamble hereto.

"**Holdings Equity Proceeds**" means the proceeds of any sale of Capital Stock (other than Disqualified Capital Stock) of Holdings following the First Amendment Effective Date (and excluding any proceeds of the Qualifying IPO), in each case, only to the extent that (i) such proceeds are held by Holdings in the form of cash or Cash Equivalents, (ii) such proceeds are not contributed by Holdings to the Company or any Subsidiary and (iii) the Restricted Payment Amount is not increased in respect of such proceeds.

"**Increased-Cost Lenders**" has the meaning assigned to that term in Section 2.22.

"**Indebtedness**" as applied to any Person, means, without duplication, (i) all indebtedness for borrowed money; (ii) that portion of obligations with respect to Capital Leases that is properly classified as a liability on a balance sheet in conformity with GAAP; (iii) notes payable and drafts accepted representing extensions of credit whether or not representing obligations for borrowed money (excluding accounts payable which are classified as current

liabilities in accordance with GAAP and accrued expenses in each case incurred in the ordinary course of business); (iv) any obligation owed for all or any part of the deferred purchase price of property or services (excluding any such obligations incurred under ERISA or with respect to earn-outs incurred and paid when due in connection with Permitted Acquisitions), which purchase price is due more than six months from the date of incurrence of the obligation in respect thereof; (v) all indebtedness secured by any Lien on any property or asset owned or held by that Person regardless of whether the indebtedness secured thereby shall have been assumed by that Person or is nonrecourse to the credit of that Person; (vi) the face amount of any letter of credit issued for the account of that Person or as to which that Person is otherwise liable for reimbursement of drawings; (vii) the direct or indirect guaranty, endorsement (otherwise than for collection or deposit in the ordinary course of business), co-making, discounting with recourse or sale with recourse by such Person of the obligation of another; (viii) any obligation of such Person the primary purpose or intent of which is to provide assurance to an obligee that the obligation of the obligor thereof will be paid or discharged, or any agreement relating thereto will be complied with, or the holders thereof will be protected (in whole or in part) against loss in respect thereof; (ix) any liability of such Person for an obligation of another through any agreement (contingent or otherwise) (a) to purchase, repurchase or otherwise acquire such obligation or any security therefore, or to provide funds for the payment or discharge of such obligation (whether in the form of loans, advances, stock purchases, capital contributions or otherwise) or (b) to maintain the solvency or any balance sheet item, level of income or financial condition of another if, in the case of any agreement described under subclauses (a) or (b) of this clause (ix), the primary purpose or intent thereof is as described in clause (viii) above; (x) all net payment obligations of such Person in respect of any exchange traded or over the counter derivative transaction, including, without limitation, any Interest Rate Agreement and Currency Agreement, whether entered into for hedging or speculative purposes; (xi) the principal balance outstanding under any synthetic lease, tax retention lease, off-balance sheet loan or similar off-balance sheet financing product; and (xii) the indebtedness of any partnership or Joint Venture in which such Person is a general partner or a joint venturer except to the extent that the terms of such indebtedness provide that such indebtedness is nonrecourse to such Person.

"**Indemnified Liabilities**" has the meaning assigned to that term in Section 10.3(a).

"**Indemnitee**" has the meaning assigned to that term in Section 10.3(a).

"**Intellectual Property**" means all patents, trademarks, service marks, tradenames, domain names, trade secrets, copyrights, technology, know-how and processes used in or necessary for the conduct of the business of Company and its Subsidiaries.

"Intercreditor Agreement" shall mean the Intercreditor Agreement in the form of Exhibit N.

"**Interest Payment Date**" means with respect to (i) any Base Rate Loan, the last Business Day in each of March, June, September and December of each year through the final maturity date of such Loan; and (ii) any Eurodollar Rate Loan, the last day of each Interest Period applicable to such Loan; provided, in the case of each Interest Period of longer than three

months "Interest Payment Date" shall also include each date that is three months, or an integral multiple thereof, after the commencement of such Interest Period.

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

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

"**Interest Rate Determination Date**" means, with respect to any Interest Period, the date that is two (2) Business Days prior to the first day of such Interest Period.

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

"**Inventory**" shall mean all "inventory," as such term is defined in the UCC as in effect on the date hereof in the State of New York, wherever located, in which any Person now or hereafter has rights.

"**Inventory Appraisal**" shall mean (a) on the Closing Date and thereafter until any subsequent inventory appraisal is completed and delivered pursuant to Section 5.6(b) hereof, the inventory appraisal prepared by Hilco Appraisal Services, LLC dated April 19, 2007 and (b) thereafter, the most recent inventory appraisal conducted by an independent appraisal firm satisfactory to the Collateral Agent and the Administrative Agent and delivered pursuant to Section 5.6(b) hereof.

"**Investment**" means (i) any direct or indirect purchase or other acquisition by Holdings or any of its Subsidiaries of, or of a beneficial interest in, any of the

Securities of any other Person (including any Subsidiary of Holdings); (ii) any direct or indirect redemption, retirement, purchase or other acquisition for value, by any Subsidiary of Holdings from any Person other than Company or any Guarantor Subsidiary, of any Capital Stock of such Subsidiary; and (iii) any direct or indirect loan, advance (other than advances to employees for moving, entertainment and travel expenses, drawing accounts and similar expenditures in the ordinary course of business) or capital contribution by Holdings or any of its Subsidiaries to any

other Person, including all indebtedness and accounts receivable from that other Person that are not current assets or did not arise from sales to that other Person in the ordinary course of business. The amount of any Investment shall be the original cost of such Investment plus the cost of all additions thereto minus the amount of any return of capital with respect to such Investment, without any adjustments for increases or decreases in value, or write-ups, write-downs or write-offs with respect to such Investment.

"**Investment Conditions**" means (i) the Consolidated Coverage Ratio is not less than 2.0 to 1.0 and (ii) the Leverage Ratio is not greater than 5.0 to 1.0.

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

"**Issuing Bank**" means (i) Credit Suisse as Issuing Bank hereunder, together with its permitted successors and assigns in such capacity and (ii) any other Lender that is a commercial bank acceptable to Company and Administrative Agent.

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

"**Lender**" has the meaning assigned to that term in the preamble hereto, and shall include any other Person that becomes a party hereto pursuant to an Assignment Agreement.

"**Lender Counterparty**" means each Lender or any Affiliate of a Lender counterparty to a Hedge Agreement or Banking Service Agreement (including any Person who is a Lender (and any Affiliate thereof) as of the Closing Date but subsequently, whether before or after entering into a Hedge Agreement or Banking Service Agreement, ceases to be a Lender).

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

"**Letter of Credit Sublimit**" means the lesser of (i) $5,000,000 and (ii) the aggregate unused amount of the Revolving Loan Commitments then in effect.

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

"**Leverage Ratio**" means the ratio as of the date of determination of (i) Consolidated Total Debt, less unrestricted Cash and Cash Equivalents of Company and its Subsidiaries as of such day in excess of $1,000,000, the contents of which are in a Blocked Account, to (ii) Consolidated Adjusted EBITDA for the Test Period most recently ended.

"**Lien**" means any lien, mortgage, pledge, assignment, security interest, charge or encumbrance of any kind (including any agreement to give any of the foregoing, any conditional

sale or other title retention agreement, and any lease in the nature thereof) and any option, trust or other preferential arrangement having the practical effect of any of the foregoing.

"**Liquidity Event**" means Excess Availability of the Borrowers is less than $6.0 million.

"**Liquidity Event Cure**" has the meaning assigned to such term in Section 8.2.

"**Liquidity Event Cure Amount**" has the meaning assigned to such term in Section 8.2.

"**Liquidity Event Cure Notice**" has the meaning assigned to such term in Section 8.2.

"**Liquidity Event Cure Right**" has the meaning assigned to such term in Section 8.2.

"**Loan**" means a Revolving Loan and a Swing Line Loan.

"**Management Services Agreement**" means the Amended and Restated Management Services Agreement dated April 12, 2004 between Holdings and Sponsor, as it may be amended, supplemented or otherwise modified from time to time.

"**Margin Stock**" has the meaning assigned to that term in Regulation U of the Board of Governors of the Federal Reserve System as in effect from time to time.

"**Material Adverse Effect**" means a material adverse effect upon (i) the business, operations, properties, assets or condition (financial or otherwise) of Holdings and its Subsidiaries taken as a whole; (ii) the ability of any Credit Party to perform its Obligations; (iii) the legality, validity, binding effect or enforceability against a Credit Party of a Credit Document to which it is a party; or (iv) the rights, remedies and benefits available to, or conferred upon, any Agent and any Lender or any Secured Party under any Credit Document.

"**Maturity Date**" means May 21, 2012.

"**Maximum Restricted Payment Amount**" means, for any four Fiscal Quarter period, (1) $24,000,000, if Consolidated Adjusted EBITDA is greater than or equal to $30,000,000 and less than or equal to $40,000,000 for the Test Period, (2) $12,000,000, if Consolidated Adjusted EBITDA is greater than or equal to $27,000,000 but less than $30,000,000 for the Test Period, (3) $8,000,000, if Consolidated Adjusted EBITDA is greater than or equal to $25,000,000 but less than $27,000,000 for the Test Period, and (4) $0, if Consolidated Adjusted EBITDA is less than $25,000,000 for the Test Period.

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

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

"**Multiemployer Plan**" means any Employee Benefit Plan which is a "multiemployer plan" as defined in Section 3(37) or Section 4001(a)(3) of ERISA.

"**Net Asset Sale Proceeds**" means, with respect to any Asset Sale, an amount equal to: (i) Cash payments (including any Cash received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received) received by Holdings or any of its Subsidiaries from such Asset Sale, minus (ii) any bona fide direct costs incurred in connection with such Asset Sale, including, without limitation, (a) income taxes estimated in good faith by the seller thereof to be payable by the seller as a result of any gain recognized in connection with such Asset Sale, (b) payment of the outstanding principal amount of, premium or penalty, if any, and interest on any Indebtedness (other than the Loans) that is secured by a Lien on the stock or assets in question and that is required to be repaid under the terms thereof as a result of such Asset Sale, (c) brokerage fees and legal expenses incurred directly attributable to such Asset Sale; and (d) any reserves required to be established by the seller thereof in accordance with GAAP against liabilities reasonably anticipated and directly attributable to the Asset Sale, including, without limitation, pension and other post-employment benefit liabilities, liabilities related to environmental matters and liabilities under indemnification obligations associated with such Asset Sale.

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

"**Net Recovery Cost Percentage**" means the fraction, expressed as a percentage, (a) the numerator of which is the amount equal to the recovery on the aggregate amount of the Inventory at such time on a "net orderly liquidation value" basis as set forth in the most recent Inventory Appraisal received by Collateral Agent in accordance with Section 5.6(b), net of operating expenses, liquidation expenses and commissions reasonably anticipated in the disposition of such assets, and (b) the denominator of which is the original Cost of the aggregate amount of the Inventory subject to appraisal.

"**Non-US Lender**" has the meaning assigned to that term in Section 2.19(c).

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

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

"**Obligations**" means all obligations of every nature of each Credit Party from time to time owed to the Agents (including former Agents), the Lenders, Issuing Bank or any of them, or to any Lender Counterparties, under any Credit Document or Hedge Agreement or with respect to any Banking Services Agreement (including, without limitation, with respect to a Hedge Agreement or Banking Services Agreement, obligations owed thereunder to any person who was a Lender or an Affiliate of a Lender at the time such Hedge Agreement or Banking Services Agreement was entered into or initiated, as the case may be), whether for principal, interest (including interest which, but for the filing of a petition in bankruptcy with respect to such Credit Party, would have accrued on any Obligation, whether or not a claim is allowed against such Credit Party for such interest in the related bankruptcy proceeding), reimbursement of amounts drawn under Letters of Credit, payments for early termination of Hedge Agreements or Banking Services Agreements, fees, expenses, indemnification or otherwise.

"**Obligee Guarantor**" has the meaning assigned to that term in Section 7.7.

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

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

"**Pension Plan**" means any Employee Benefit Plan which is subject to Section 412 of the Internal Revenue Code or Section 302 of ERISA.

"**Perfection Deliverables**" means, with respect to any Credit Party, or any Person that becomes a Credit Party pursuant to Section 5.10 and to the extent required to be delivered under such Section:

(i) evidence satisfactory to Collateral Agent of the compliance by such Credit Party of its obligations under the Pledge and Security Agreement and the other Collateral Documents (including, without limitation, its obligations (A) to execute and deliver (x) UCC financing statements, (y) originals of securities, instruments and chattel paper and (z) any agreements governing deposit and/or securities accounts as provided therein, and (B) to file intellectual property security agreements with the United States Patent and Trademark Office and the United States Copyright Office);

(ii) (A) to the extent required to be delivered by the Collateral Agent, the results of searches, by Persons satisfactory to Collateral Agent, of all effective UCC financing statements (or equivalent filings), fixture filings and all judgment and tax lien filings which may have been made with respect to any personal or mixed property of such Credit Party, and of filings with the United States Patent and Trademark Office and the United States Copyright Office, together with copies of all such filings disclosed by such searches, and (B) UCC termination statements (or similar documents), releases to be filed with the United States Patent and Trademark Office and the United States Copyright Office, and other filings duly executed by all applicable Persons for filing in all applicable jurisdictions and offices as may be necessary to terminate any effective UCC financing statements (or equivalent filings) and other filings disclosed in such searches (other than any such financing statements in respect of Permitted Liens);

(iii) to the extent required to be delivered by the Collateral Agent, opinions of counsel (which counsel shall be reasonably satisfactory to Collateral

Agent) with respect to the creation and perfection of the security interests in favor of Collateral Agent in the Collateral of such Credit Party and such other matters as Collateral Agent may reasonably request, in each case in form and substance reasonably satisfactory to Collateral Agent; and

(iv) evidence that such Credit Party shall have taken or caused to be taken any other action, executed and delivered or caused to be executed and delivered any other agreement, document and instrument (including without limitation, any intercompany notes evidencing Indebtedness permitted to be incurred pursuant to Section 6.1(b)) and made or caused to be made any other filing and recording (other than as set forth herein) reasonably required by Collateral Agent.

"**Performance Level**" means, as of the date of determination, Performance Level I or Performance Level II, as identified by reference to Average Daily Excess Availability in effect on such date as set forth below:

Performance Level	Average Daily Excess Availability
Level I	Average Daily Excess Availability is greater than $25,000,000
Level II	Average Daily Excess Availability is less than or equal to $25,000,000

For purposes of this definition, Average Daily Excess Availability shall be determined on the basis of the most recent Compliance Certificate delivered pursuant to Section 5.1(d) hereof and any change in the Performance Level shall be effective one Business Day after the date on which Administrative Agent receives such certificate; provided, that until Holdings has delivered to Administrative Agent such certificate pursuant to Section 5.1(d) hereof in respect of Fiscal Year 2007, Average Daily Excess Availability shall be deemed to be at Level II; provided, further, that for so long as Holdings has not delivered such Compliance Certificate when due pursuant to Section 5.1(d) hereof Average Daily Excess Availability shall be deemed to be at Level II until such certificate is delivered to Administrative Agent.

"**Periodic Dividend Amount**" means (x) $16,000,000 minus (y) the sum of the aggregate amount of Restricted Payments made pursuant to Section 6.5(d)(i) during the Fiscal Quarter in which the subject Restricted Payment is to be paid and the three Fiscal Quarters most recently ended.

"**Permitted Acquisition**" means any acquisition by Company or any of its wholly-owned Guarantor Subsidiaries, whether by purchase, merger or otherwise, of all or substantially all of the assets of, all of the Capital Stock of, or a business line or unit or a division of, any Person; provided, that: (i) immediately prior to, and after giving effect thereto, no Liquidity Event or Default or Event of Default shall have occurred and be continuing or would result therefrom; (ii) all transactions in connection therewith shall be consummated, in all material respects, in accordance with all applicable laws and in conformity with all applicable Governmental Authorizations; (iii) in the case of the acquisition of Capital Stock, all of the Capital Stock (except for any such Securities in the nature of directors' qualifying shares required pursuant to applicable law) acquired or otherwise issued by such Person or any newly formed Subsidiary of Company in connection with such acquisition shall be owned not less than 80% by Company or a Guarantor Subsidiary thereof, and Company shall have taken, or caused to be taken, each of the actions (and within the time periods) set forth in Sections 5.10 and/or 5.11, as applicable; (iv) any Person or assets or division as acquired in accordance herewith shall be in same business or lines of business in which Company and/or its Subsidiaries are engaged as of the Closing Date or any business reasonably related thereto; and (v) each such Permitted Acquisition shall be effectuated pursuant to the terms of a consensual merger or stock purchase agreement or other consensual acquisition agreement between the Company or the applicable Subsidiary and the applicable seller or Person being so acquired .

"**Permitted Cure Security**" means Capital Stock of Holdings that is not Disqualified Capital Stock.

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

"**Permitted Refinancing**" means, with respect to any Indebtedness, extensions, renewals, refinancings or replacements of such Indebtedness provided that such extensions, renewals, refinancings or replacements (i) are on terms and conditions (including the terms and conditions of any guarantees of or other credit support for such Indebtedness) not materially less favorable taken as a whole to Company and its Subsidiaries, the Agents or the Lenders than the terms and conditions of the Indebtedness being extended, renewed, refinanced or replaced, (ii) do not add as an obligor any Person that would not have been an obligor under the Indebtedness being extended, renewed replaced or refinanced, (iii) do not result in a greater principal amount or shorter remaining average life to maturity than the Indebtedness being extended, renewed replaced or refinanced and (iv) are not effected at any time when a Default or Event of Default has occurred and is continuing or would result therefrom.

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

"**Phase I Report**" means, with respect to any Facility, a report that (i) conforms to the ASTM Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process, E 1527, (ii) was conducted no more than six months prior to the date such report is required to be delivered hereunder, by one or more environmental consulting firms reasonably satisfactory to Administrative Agent, (iii) includes an assessment of asbestos-containing materials at such Facility, (iv) is accompanied by (a) an estimate of the reasonable worst-case cost of investigating and remediating any Hazardous Materials Activity identified in the Phase I Report as giving rise to an actual or potential material violation of any Environmental Law or as presenting a material risk of giving rise to a material Environmental Claim, and (b) a current compliance audit setting forth an assessment of Holdings', its Subsidiaries' and such Facility's current and past compliance with Environmental Laws and an estimate of the cost of rectifying any non-compliance with current Environmental Laws identified therein and the cost of compliance with reasonably anticipated future Environmental Laws identified therein.

"**Pledge and Security Agreement**" means the Pledge and Security Agreement dated as of the Closing Date by Borrowers and each Guarantor, substantially in the form of Exhibit I, as it may be amended, supplemented or otherwise modified from time to time.

"**Prime Rate**" means the rate of interest per annum announced from time to time by Credit Suisse as its prime commercial lending rate in effect at its principal office in New York City. The Prime Rate is a reference rate and does not necessarily represent the lowest or best rate actually charged to any customer. Credit Suisse or any other Lender may make commercial loans or other loans at rates of interest at, above or below the Prime Rate.

"**Principal Office**" means, for each of Administrative Agent, Swing Line Lender and Issuing Bank, such Person's "Principal Office" as set forth on Appendix B, or such other

office as such Person may from time to time designate in writing to Borrower Representative, Administrative Agent and each Lender.

"**Projections**" has the meaning assigned to that term in Section 4.8.

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

"**Qualifying IPO**" means the consummation of the first underwritten public offering of the Capital Stock (other than Disqualified Capital Stock) of Holdings following the Closing Date pursuant to a registration statement filed with the Securities and Exchange Commission in accordance with the Securities Act.

"**Qualifying IPO Payment**" means, concurrent with the closing of a Qualifying IPO, the one-time payment to Sponsor in connection with the termination of the Management Services Agreement in an aggregate amount not to exceed $6,000,000.

"**Qualifying Preferred Stock Redemption**" means, concurrent with the closing of a Qualifying IPO, the payment of $1,000 to Aurora Equity Partners II L.P. and $1,000 to Ares Limited Partnership in respect of the redemption of the one share of Series B Preferred Stock and Series C Preferred Stock held by Aurora Equity Partners II L.P. and the Ares Limited Partnership, respectively.

"**Qualifying Senior Notes Redemption**" means, concurrent with the closing of a Qualifying IPO, the Company and DD Finance (i) have given irrevocable and unconditional notice of redemption for all of the outstanding Senior Notes, (ii) have timely and irrevocably deposited or caused to be deposited with the trustee under the Senior Notes Indenture proceeds of a Qualifying IPO, proceeds of Additional Term Loans (as defined in the Term Loan Facility), Cash and/or proceeds of Revolving Loans sufficient to pay and discharge the entire indebtedness (including all principal, premium, if any, and accrued interest) on all outstanding Senior Notes and (iii) have satisfied all other conditions precedent to the discharge of the Senior Notes Indenture set forth in Section 8.8 of the Senior Notes Indenture.

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

"**Real Estate Asset Deliverables**" means, with respect to any Real Estate Asset acquired by any Credit Party, or held by any Person that becomes a Credit Party, and to the extent required to be delivered pursuant to Section 5.11:

(i) fully executed and notarized Mortgages, in proper form for recording in all appropriate places in all applicable jurisdictions, encumbering such Real Estate Asset;

(ii) at the request of the Collateral Agent, an opinion of counsel (which counsel shall be reasonably satisfactory to Collateral Agent) in each state in which such Real Estate Asset is located with respect to the enforceability of the form(s) of Mortgages to be recorded in such state and such other matters as Collateral Agent may reasonably request, in each case in form and substance reasonably satisfactory to Collateral Agent;

(iii) at the request of the Collateral Agent, (a) ALTA mortgagee title insurance policies or unconditional commitments therefore issued by one or more title companies reasonably satisfactory to Collateral Agent with respect to such Real Estate Asset, in amounts satisfactory to the Collateral Agent with respect to such Real Estate Asset, together with a title report issued by a title company with respect thereto (each, a "**Title Policy**") and dated as of a recent date prior to the date which such Real Estate Asset is acquired or such Person becomes a Credit Party, as the case may be, and copies of all recorded documents listed as exceptions to title or otherwise referred to therein, each in form and substance reasonably satisfactory to Collateral Agent and (b) evidence satisfactory to Collateral Agent that such Credit Party has paid to the title company or to the appropriate governmental authorities all expenses and premiums of the title company and all other sums required in connection with the issuance of each Title Policy and all recording and stamp taxes (including mortgage recording and intangible taxes) payable in connection with recording the Mortgages for such Real Estate Asset in the appropriate real estate records;

(iv) evidence of flood insurance with respect to each Flood Hazard Property that is located in a community that participates in the National Flood Insurance Program, in each case in compliance with any applicable regulations of the Board of Governors of the Federal Reserve System, in form and substance reasonably satisfactory to Collateral Agent; and

(v) at the request of the Collateral Agent, ALTA surveys of such Real Estate Asset, certified to Collateral Agent and dated as of a recent date which such Real Estate Asset is acquired or such Person becomes a Credit Party, as the case may be.

"**Refunded Swing Line Loans**" has the meaning assigned to that term in Section 2.2(b)(iv).

"**Register**" has the meaning assigned to that term in Section 2.6(b).

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

"**Reimbursement Date**" has the meaning assigned to that term in Section 2.3(d).

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

"**Related Lender Assignment**" has the meaning assigned to that term in Section 10.6(c).

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

"**Replacement Lender**" has the meaning assigned to that term in Section 2.22.

"**Requisite Lenders**" means one or more Lenders having or holding Revolving Exposure and representing more than 50% of the sum of the aggregate Revolving Exposure of all Lenders.

"**Reserves**" shall mean reserves established against the Borrowing Base that the Collateral Agent or Administrative Agent may, in good faith and in the exercise of its respective reasonable (from the perspective of a secured asset-based lender) business judgment, establish from time to time (including, without limitation, (i) reserves for rent at locations leased by any Borrower for which no Collateral Access Agreement is in effect, (ii) reserves for consignee's, warehousemen's and bailee's charges at consignor, warehouse and bailee locations for which Collateral Access Agreements, bailee waivers or mortgagor waivers, as appropriate, have not been obtained and at which Inventory is located, (iii) reserves for customs charges and shipping charges related to any Inventory in transit, (iv) reserves for obligations under Hedge Agreements, (v) reserves for contingent liabilities of any Credit Party, (vi) reserves for uninsured losses of any Credit Party, (vii) reserves for uninsured, underinsured, un-indemnified or under-indemnified liabilities or potential liabilities with respect to any litigation,(viii) reserves for taxes, fees,

assessments, and other governmental charges) and (ix) reserves for obligations under Banking Services Agreements.

"**Restricted Payment**" means (i) any dividend or other distribution (including, for the avoidance of doubt, any payment pursuant to Section 6.5(d)), direct or indirect, on account of any shares of any class of stock (or of any other Capital Stock) of Holdings or Company now or hereafter outstanding, except a dividend payable solely in shares of that class of stock to the holders of that class; (ii) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any shares of any class of stock (or of any other Capital Stock) of Holdings or Company now or hereafter outstanding; (iii) any payment made to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire shares of any class of stock (or of any other Capital Stock) of Holdings or Company now or hereafter outstanding; (iv) management or similar fees payable to Sponsor or any of its Affiliates and (v) any payment or prepayment of principal of, premium, if any, or interest on, or redemption, purchase, retirement, defeasance (including in-substance or legal defeasance), sinking fund or similar payment with respect to, any Indebtedness permitted pursuant to Sections 6.1(b), 6.1(e) (in respect of Indebtedness incurred under Sections 6.1(b), 6.1(k) (to the extent constituting subordinated Indebtedness) or 6.1(m)), 6.1(k) (to the extent constituting subordinated Indebtedness) or 6.1(m). Notwithstanding anything to the contrary contained herein, (i) the redemption of the Senior Notes pursuant to the Qualifying Senior Notes Redemption shall not be treated as a Restricted Payment for any purpose hereunder, (ii) the Qualifying IPO Payment shall not be treated as a Restricted Payment for any purpose hereunder, and (iii) the redemption by Holdings of any preferred stock of Holdings pursuant to a Qualifying Preferred Stock Redemption shall not be treated as a Restricted Payment for any purpose hereunder.

"**Restricted Payment Amount**" means, as of any date of determination, an amount set forth on the Restricted Payment Certificate delivered to the Administrative Agent no later than 10:00 a.m. (New York City time) at least 3 Business Days in advance of the payment date of the transaction giving rise to a determination of the Restricted Payment Amount (which can be less than zero), equal to (a) the difference (but not less than zero) between (i) Restricted Payment EBITDA and (ii) the product of 2.0 multiplied by Cumulative Interest Expense (determined, in each case, for the period commencing on the first day of the first full Fiscal Quarter after the Closing Date through and including the last full Fiscal Quarter (taken as one accounting period) preceding such date of determination), plus (b) 100% of the aggregate net cash proceeds received by the Company from a capital contribution or sale of Capital Stock to Holdings after the Closing Date, plus (c) except in each case, in order to avoid duplication, to the extent any such payment or proceeds have been included in the calculation of Restricted Payment EBITDA, an amount equal to the net amounts received in respect of Investments made under Section 6.7(l) or 6.7(m) in any Person resulting from cash distributions on or cash repayments of any Investments, including payments of interest on Indebtedness, dividends, repayments of loans or advances, or other distributions or other transfers of assets, in each case to Company, DD Finance, Fisher or any of their respective Subsidiaries or from the net cash proceeds from the sale of any such Investment, not to exceed, in each case, the amount of Investments previously made by Company, DD Finance, Fisher or any of their respective Subsidiaries in such Person, less the cost of disposition (and excluding Investments in Subsidiaries), minus (d) the sum of (i) the aggregate amount of Restricted Payments made

pursuant to Sections 6.5(a)(ii) (other than to the Company or a wholly-owned Subsidiary Guarantor) and 6.5(c)(iv); and (ii) (without duplication) amounts applied or utilized pursuant to Section 6.5(d)(i), Section 6.5(f), Section 6.7(l) or Section 6.7(m) or Section 6.16(d). For purposes of this definition, (i) the amount of any payment or Investment made or returned hereunder, if other than in cash, shall be the fair market value thereof, as determined in the good faith reasonable judgment of the board of directors of the Company (or similar governing body) for such payments or Investments with a value in excess of $1.0 million, and otherwise by an executive officer of the Company at the time made or returned, as applicable, (ii) interest with respect to Capital Leases shall be deemed to accrue at an interest rate reasonably determined in good faith by the Company to be the rate of interest implicit in such Capital Lease in accordance with GAAP and (iii) interest expense attributable to any Indebtedness represented by the guarantee by the Company or any of its Subsidiaries of an obligation of another Person shall be deemed to be the interest expense attributable to the Indebtedness guaranteed. Notwithstanding anything to the contrary contained herein, (i) the redemption of the Senior Notes pursuant to the Qualifying Senior Notes Redemption shall not reduce the Restricted Payment Amount for any purpose hereunder, (ii) the Qualifying IPO Payment shall not reduce the Restricted Payment Amount for any purpose hereunder, (iii) the proceeds of a Qualifying IPO shall not increase the Restricted Payment Amount for any purpose hereunder, and (iv) the redemption of preferred stock of Holdings pursuant to the Qualifying Preferred Stock Redemption shall not reduce the Restricted Payment Amount for any purpose hereunder.

"**Restricted Payment Certificate**" means a Restricted Payment Certificate substantially in the form of Exhibit K.

"**Restricted Payment EBITDA**" means, for any period and without duplication, (a) Consolidated Adjusted EBITDA for such period,plus (b) the sum of each of the following to the extent deducted in the calculation of Consolidated Net Income for such period, (i) all losses which are non-recurring, (ii) interest attributable to Attributable Indebtedness, and (iii) the amount of all dividends accrued or payable (whether or not in cash) by the Company or any of its Subsidiaries in respect of preferred stock (other than (A) dividends on Capital Stock (other than Disqualified Capital Stock) of the Company or such Subsidiary payable solely in Capital Stock (other than Disqualified Capital Stock) of the Company or such Subsidiary, as applicable, and (B) dividends by Subsidiaries of the Company to the Company or its wholly-owned Subsidiaries), plus (c) the aggregate amount of interest income of the Company and its Subsidiaries during such period paid in cash to the extent reducing Consolidated Adjusted EBITDA minus (d) all gains which are non-recurring (including any gain from the issuance or sale of any Capital Stock) to the extent included in the calculation of Consolidated Net Income for such period.

"**Revolving Loan Commitment**" means the commitment of a Lender to make or otherwise fund any Revolving Loan and to acquire participations in Letters of Credit and Swing Line Loans hereunder and "**Revolving Loan Commitments**" means such commitments of all Lenders in the aggregate. The amount of each Lender's Revolving Loan Commitment, if any, is set forth on Appendix A-2 or in the applicable Assignment Agreement, subject to any adjustment or reduction pursuant to the terms and conditions hereof. The aggregate amount of the Revolving Loan Commitments as of the Closing Date is $60,000,000.

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

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

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

"**Revolving Loan**" means a Loan made by a Lender to Company pursuant to Section 2.1(a).

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

"**RP Conditions**" means (i) the sum of (x) the aggregate amount of Cash of the Borrowers in Deposit Accounts subject to a Blocked Account Agreement and (y) Excess Availability is at least $12,000,000; provided, that Excess Availability will be calculated without giving effect to any Cash, and (ii) the Leverage Ratio is less than 6.0 to 1.0.

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

"**Second Amendment to Term Loan Facility**" means Amendment No. 2 to Term Loan Facility, dated as of April 16, 2010 among the Company and the lenders party thereto.

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

"Secured Debt Ratio" means the ratio as of the date of determination of (i) Consolidated Secured Debt, less unrestricted Cash and Cash Equivalents of the Company and its Subsidiaries in excess of $1,000,000, the contents of which are in a Blocked Account, as of such date, to (ii) Consolidated Adjusted EBITDA for the Test Period most recently ended.

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

"**Section 6.5(d) Certificate**" means a certificate of an Authorized Officer (i) certifying that the conditions to the making of a Restricted Payment set forth in Section 6.5(d)(i) have been satisfied and (ii) designating the portion of such Restricted Payment made in reliance upon (x) the Periodic Dividend Amount and (y) the Restricted Payment Amount. Any such designation made pursuant to clause (ii) of the preceding sentence shall be permanent.

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

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

"**Senior Notes**" means the Senior Notes issued pursuant to the Senior Notes Indenture.

"**Senior Notes Indenture**" means that certain Indenture dated as of December 16, 2004, by and among the Company, DD Finance and U.S. Bank National Association, as Indenture Trustee, governing the Company's 7 ¾% Senior Notes due 2012.

"**Solvency Certificate**" means a Solvency Certificate of the chief financial officer of Holdings and each Borrower substantially in the form of Exhibit G.

"**Solvent**" means, with respect to any Person, that as of the date of determination both (A) (i) the then fair saleable value of the property of such Person is (y) greater than the total amount of liabilities (including contingent liabilities) of such Person and (z) not less than the amount that will be required to pay the probable liabilities on such Person's then existing debts as they become absolute and matured considering all financing alternatives and potential asset sales reasonably available to such Person; (ii) such Person's capital is not unreasonably small in relation to its business or any contemplated or undertaken transaction; and (iii) such Person has not incurred and does not intend to incur, or believe (nor should it reasonably believe) that it will incur, debts beyond its ability to pay such debts as they become due (whether at maturity or otherwise); and (B) such Person is "solvent" within the meaning given that term and similar terms under applicable laws relating to fraudulent transfers and conveyances. For purposes of this definition, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"**Sponsor**" means, collectively, the Aurora Group Investors, the Ares Group Investors and the Affiliates (without giving effect to clause (i) of the last sentence of the definition of such term) of Aurora Management Partners LLC or Ares Management LLC.

"**Subject Transaction**" has the meaning assigned to that term in Section 6.8(c)(i).

"**Subsidiary**" means, with respect to any Person, any corporation, partnership, limited liability company, association, joint venture or other business entity of which more than 50% of the total voting power of shares of stock or other ownership interests entitled (without regard to the occurrence of any contingency) to vote in the election of the Person or Persons (whether directors, managers, trustees or other Persons performing similar functions) having the power to direct or cause the direction of the management and policies thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof; provided, in determining the percentage of ownership interests of any Person controlled by another Person, no ownership interest in the nature of a "qualifying share" of the former Person shall be deemed to be outstanding.

"**Swing Line Lender**" means Credit Suisse in its capacity as Swing Line Lender hereunder, together with its permitted successors and assigns in such capacity.

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

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

"**Swing Line Sublimit**" means the lesser of (i) $5,000,000, and (ii) the aggregate unused amount of Revolving Loan Commitments then in effect.

"**Tax**" means, with respect to any Person, any present or future tax, levy, impost, duty, assessment, charge, fee, deduction or withholding of any nature and whatever called, by whomsoever, on whomsoever and wherever imposed, levied, collected, withheld or assessed; provided, however, solely for purposes of Sections 2.18 and 2.19, the foregoing shall not include (a) taxes imposed on or measured by such Person's overall net income (however denominated), and franchise taxes imposed on such Person (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which such Person is organized or in which its principal office is located or, in the case of any Lender, in which its applicable lending office is located, (b) any branch profits taxes imposed by the United States of America or any similar tax imposed by any other jurisdiction in which Company is located and (c) in the case of a Non-US Lender, any withholding tax that is imposed on amounts payable to such Lender at the time such Lender becomes a party hereto (or designates a new lending office) or is attributable to such Lender's failure (other than as a result of a Change in Law) to comply with Section 2.19(c), except to the extent that such Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts from Company with respect to such withholding tax pursuant to Section 2.19(a) or Section 2.19(b).

"**Term Loan Collateral Agent**" means Credit Suisse as collateral agent under the Term Loan Facility.

"**Term Loan Document**" all documents, instruments or agreements executed and delivered by Holdings or any of its subsidiaries for the benefit of any agent or lender in connection with the Term Loan Facility.

"**Term Loan Facility**" means the $85.0 million senior secured term loan pursuant to the term loan agreement dated as of the Closing Date among Holdings, the Company, certain subsidiary guarantors, the lenders party thereto and Credit Suisse as administrative agent and collateral agent, as it may be amended, modified, refinanced or replaced from time to time, including amendments increasing the principal amount of term loans available thereunder.

"**Term Priority Collateral**" has the meaning assigned to that term in the Intercreditor Agreement.

"**Terminated Lender**" has the meaning assigned to that term in Section 2.22.

"**Test Period**" means, at any time, the four Fiscal Quarters last ended (in each case taken as one accounting period) for which financial statements are required to have been delivered, pursuant to Section 5.1(b).

"**Title Policy**" has the meaning assigned to that term in the definition of "Real Estate Asset Deliverables."

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

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

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

"**Utilization Rate**" means (a) the average of the daily difference between (1) the Revolving Loan Commitments, and (2) the sum of (x) the aggregate principal amount of outstanding Revolving Loans (excluding any outstanding Swing Line Loans) plus (y) the Letter of Credit Usage, divided by (b) the Revolving Loan Commitments.

1.2 Accounting Terms. Except as otherwise expressly provided herein, all accounting terms not otherwise defined herein shall have the meanings assigned to them in conformity with GAAP. Financial statements and other information required to be delivered by Holdings to Lenders pursuant to Section 5.1(b) and 5.1(c) shall be prepared in accordance with GAAP as in effect at the time of such preparation (and delivered together with the reconciliation statements provided for in Section 5.1(e), if applicable). Subject to the foregoing, calculations in connection with the definitions, covenants and other provisions hereof shall utilize accounting principles and policies in conformity with those used to prepare the most recent financial statements referred to in Section 4.7; provided that, solely for purposes of calculating the Restricted Payment Amount, the terms used in, or otherwise relating to, the definition of

"Restricted Payment Amount" shall, except as otherwise expressly provided herein, have the meanings assigned to them in conformity with GAAP as in effect from time to time.

1.3 Interpretation, etc. Any of the terms defined herein may, unless the context otherwise requires, be used in the singular or the plural, depending on the reference. References herein to any Section, Appendix, Schedule or Exhibit shall be to a Section, an Appendix, a Schedule or an Exhibit, as the case may be, hereof unless otherwise specifically provided. The use herein of the word "include" or "including," when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not no limiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter.

SECTION 2. LOANS AND LETTERS OF CREDIT

2.1 Revolving Loans.

(a) Revolving Loan Commitments. During the Revolving Loan Commitment Period, subject to the terms and conditions hereof, each Lender severally agrees to make Revolving Loans to Borrower Representative in an aggregate principal amount at any time outstanding that will not (subject to the provisions of Section 9.9) result in such Lender's Revolving Exposure exceeding the lesser of (i) such Lender's Revolving Loan Commitment and (ii) such Lender's Pro Rata Share multiplied by the Borrowing Base. Subject to the other terms and conditions of this Agreement, amounts borrowed pursuant to this Section 2.1(a) may be repaid and reborrowed during the Revolving Loan Commitment Period. Each Lender's Revolving Loan Commitment shall expire on the Revolving Loan Commitment Termination Date and all Revolving Loans and all other amounts owed hereunder with respect to the Revolving Loans and the Revolving Loan Commitments shall be paid in full no later than such date.

(b) Borrowing Mechanics for Revolving Loans

(i) Except pursuant to 2.3(d), Revolving Loans that are Base Rate Loans shall be made in an aggregate minimum amount of $2,000,000 and integral multiples of $500,000 in excess of that amount, and Revolving Loans that are Eurodollar Rate Loans shall be in an aggregate

minimum amount of $2,000,000 and integral multiples of $500,000 in excess of that amount.

(ii) Whenever Borrower Representative desires that Lenders make Revolving Loans, Borrower Representative shall deliver to Administrative Agent a fully executed and delivered Funding Notice no later than 10:00 a.m. (New York City time) at least three (3) Business Days in advance of the proposed Credit Date in the case of a Eurodollar Rate Loan, and at least one (1) Business Day in advance of the proposed Credit Date in the case of a Revolving Loan that is a Base Rate Loan. Except as otherwise provided herein, a Funding Notice for a Revolving Loan that is a Eurodollar Rate Loan shall be irrevocable, and Company shall be bound to make a borrowing in accordance therewith.

(iii) Notice of receipt of each Funding Notice in respect of Revolving Loans, together with the amount of each Lender's Pro Rata Share thereof, together with the applicable Type of Loan, shall be provided by Administrative Agent to each applicable Lender by telefacsimile with reasonable promptness.

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

(c) Appointment of Borrower Representative. Each Borrower hereby irrevocably appoints and constitutes Borrower Representative as its agent to request and receive Loans and Letters of Credit pursuant to this Agreement in the name or on behalf of such Borrower. The Administrative Agent and Lenders may disburse the Loans to such bank account of Borrower Representative or a Borrower or otherwise make such Loans to a Borrower and provide such Letters of Credit to a Borrower as Borrower Representative may designate or direct, without notice to any other Borrower or Guarantor. Borrower Representative hereby accepts the appointment by Borrowers to act as the agent of Borrowers and agrees to ensure that the disbursement of any Loans to a Borrower requested by or paid to or for the account of such Borrower, or the issuance of any Letter of Credit for a Borrower hereunder, shall be paid to or for the account of such Borrower. Each Borrower hereby irrevocably appoints and constitutes Borrower Representative as its agent to receive statements on account and all other notices from the Agents and Lenders with respect to the Obligations or otherwise under or in connection with

this Agreement and the other Loan Documents. Any notice, election, representation, warranty, agreement or undertaking by or on behalf of any other Borrower by Borrower Representative shall be deemed for all purposes to have been made by such Borrower, as the case may be, and shall be binding upon and enforceable against such Borrower to the same extent as if made directly by such Borrower. No purported termination of the appointment of Borrower Representative as agent as aforesaid shall be effective, except after ten (10) days' prior written notice to Administrative Agent and Collateral Agent.

2.2 Swing Line Loans.

(a) Swing Line Loans Commitments. During the Revolving Loan Commitment Period, subject to the terms and conditions hereof, Swing Line Lender hereby agrees to make Swing Line Loans to Borrower Representative in the aggregate amount up to but not exceeding the Swing Line Sublimit; provided, that after giving effect to the making of any Swing Line Loan, in no event shall the Total Utilization of Revolving Loan Commitments exceed the lesser of (i) the Revolving Loan Commitments then in effect and (ii) the Borrowing Base. Subject to the other terms and conditions of this Agreement, amounts borrowed pursuant to this Section 2.2 may be repaid and reborrowed during the Revolving Loan Commitment Period. Swing Line Lender's Revolving Loan Commitment shall expire on the Revolving Loan Commitment Termination Date and all Swing Line Loans and all other amounts owed hereunder with respect to the Swing Line Loans and the Revolving Loan Commitments shall be paid in full no later than such date.

(b) Borrowing Mechanics for Swing Line Loans.

(i) Swing Line Loans shall be made in an aggregate minimum amount of $1,000,000 and integral multiples of $500,000 in excess of that amount.

(ii) Whenever Borrower Representative desires that Swing Line Lender make a Swing Line Loan, Borrower Representative shall deliver to Administrative Agent a Funding Notice no later than 12:00 p.m. (New York City time) on the proposed Credit Date.

(iii) Except as provided herein, upon satisfaction or waiver of the conditions precedent specified herein, Swing Line Lender shall make the proceeds of Swing Line Loans available to Borrower Representative on the applicable Credit Date by causing an amount of same day funds in Dollars equal to the proceeds of all such Swing Line Loans received by Administrative Agent from Swing Line Lender to be credited to such account as may be designated in such Funding Notice.

(iv) With respect to any Swing Line Loans which have not been voluntarily prepaid by Borrower Representative pursuant to Section 2.12, Swing Line Lender may at any time in its sole and absolute discretion, deliver to Administrative Agent (with a copy to Borrower Representative), no later than 11:00 a.m. (New York City time) at least one Business Day in advance of the proposed Credit Date, a notice (which shall be deemed to be a Funding Notice given by Borrower Representative) requesting that each Lender holding a Revolving Loan Commitment make Revolving Loans that are Base Rate Loans to Borrower Representative on such Credit Date in an amount equal to the amount of such Swing Line Loans (the "**Refunded Swing Line Loans**") outstanding on the date such notice is given which Swing Line Lender requests Lenders to prepay. Anything contained in this Agreement to the contrary notwithstanding, (1) the proceeds of such Revolving Loans made by the Lenders other than Swing Line Lender shall be immediately delivered by Administrative Agent to Swing Line Lender (and not to Borrower Representative) and applied to repay a corresponding portion of the Refunded Swing Line Loans and (2) on the day such Revolving Loans are made, Swing Line Lender's Pro Rata Share of the Refunded Swing Line Loans shall be deemed to be paid with the proceeds of a Revolving Loan made by Swing Line Lender to Borrower Representative, and such portion of the Swing Line Loans deemed to be so paid shall no longer be outstanding as Swing Line Loans and shall no longer be due under the Swing Line Note of Swing Line Lender but shall instead constitute part of Swing Line Lender's outstanding Revolving Loans to Borrower Representative and shall be due under the Revolving Loan Note issued by Borrower Representative to Swing Line Lender. Borrower Representative hereby authorizes Administrative Agent and Swing Line Lender to charge Borrower Representative's accounts with Administrative Agent and Swing Line

Lender (up to the amount available in each such account) in order to immediately pay Swing Line Lender the amount of the Refunded Swing Line Loans to the extent of the proceeds of such Revolving Loans made by Lenders, including the Revolving Loans deemed to be made by Swing Line Lender, are not sufficient to repay in full the Refunded Swing Line Loans. If any portion of any such amount paid (or deemed to be paid) to Swing Line Lender should be recovered by or on behalf of Borrower Representative from Swing Line Lender in bankruptcy, by assignment for the benefit of creditors or otherwise, the loss of the amount so recovered shall be ratably shared among all Lenders in the manner contemplated by Section 2.16.

(v) If for any reason Revolving Loans are not made pursuant to Section 2.2(b)(iv) in an amount sufficient to repay any amounts owed to Swing Line Lender in respect of any outstanding Swing Line Loans on or before the third Business Day after demand for payment thereof by Swing Line Lender, each Lender holding a Revolving Loan Commitment shall be deemed to, and hereby agrees to, have purchased a participation in such outstanding Swing Line Loans, and in an amount equal to its Pro Rata Share of the applicable unpaid amount together with accrued interest thereon. Upon one Business Day's notice from Swing Line Lender to Administrative Agent and each Lender, each Lender holding a Revolving Loan Commitment shall deliver to Swing Line Lender an amount equal to its respective participation in the applicable unpaid amount in same day funds at the Principal Office of Swing Line Lender. In order to evidence such participation each Lender holding a Revolving Loan Commitment agrees to enter into a participation agreement at the request of Swing Line Lender in form and substance reasonably satisfactory to Swing Line Lender. In the event any Lender holding a Revolving Loan Commitment fails to make available to Swing Line Lender the amount of such Lender's participation as provided in this paragraph, Swing Line Lender shall be entitled to recover such amount on demand from such Lender together with interest thereon for three (3) Business Days at the rate customarily used by Swing Line Lender for the correction of errors among banks and thereafter at the Base Rate, as applicable.

(vi) Notwithstanding anything contained herein to the contrary, (1) each Lender's obligation to make Revolving Loans for the purpose of repaying any Refunded Swing Line Loans pursuant to the second preceding paragraph and each Lender's obligation to purchase a participation in any unpaid Swing Line Loans pursuant to the immediately preceding paragraph shall be absolute and unconditional and shall not be affected by any circumstance, including without limitation (A) any set-off, counterclaim, recoupment, defense or other right which such Lender may have against Swing Line Lender, any Credit Party or any other Person for any reason whatsoever; (B) the occurrence or continuation of a Default or Event of Default or the failure of any condition set forth in Section 3.2 to be satisfied; (C) any adverse change in the business, operations, properties, assets, condition (financial or otherwise) or prospects of any Credit Party; (D) any breach of this Agreement or any other Credit Document by any party thereto; or (E) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing; provided that such obligations of each Lender are subject to the condition that Swing

Line Lender believed in good faith that all conditions under Section 3.2 to the making of the applicable Refunded Swing Line Loans or other unpaid Swing Line Loans, were satisfied at the time such Refunded Swing Line Loans or unpaid Swing Line Loans were made, or the satisfaction of any such condition not satisfied had been waived by the Requisite Lenders prior to or at the time such Refunded Swing Line Loans or other unpaid Swing Line Loans were made; and (2) Swing Line Lender shall not be obligated to make any Swing Line Loans (A) if it has elected not to do so after the occurrence and during the continuation of a Default or Event of Default or (B) at a time when a Funding Default exists unless Swing Line Lender has entered into arrangements satisfactory to it and Borrower Representative to eliminate Swing Line Lender's risk with respect to the Defaulting Lender's participation in such Swing Ling Loan, including by cash collateralizing such Defaulting Lender's Pro Rata Share of the outstanding Swing Line Loans.

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

(a) Letters of Credit. During the Revolving Loan Commitment Period, subject to the terms and conditions hereof, Issuing Bank agrees to issue Letters of Credit for the account of Borrower Representative in the aggregate amount up to but not exceeding the Letter of Credit Sublimit; provided, (i) each Letter of Credit shall be denominated in Dollars; (ii) the stated amount of each Letter of Credit shall not be less than $50,000 or such lesser amount as is acceptable to Issuing Bank; (iii) after giving effect to such issuance, in no event shall the Total Utilization of Revolving Loan Commitments exceed the lesser of (A) the Revolving Loan Commitments then in effect and (B) the Borrowing Base; (iv) after giving effect to such issuance, in no event shall the Letter of Credit Usage exceed the Letter of Credit Sublimit then in effect; and (v) in no event shall any Letter of Credit be issued later than thirty (30) days prior to the Revolving Loan Commitment Termination Date or have an expiration date later than the earlier of five (5) Business Days prior to the Revolving Loan Commitment Termination Date and the date which is one year from the date of issuance of such standby Letter of Credit. Subject to the foregoing, upon the request of Borrower Representative, Issuing Bank will issue a Letter of Credit that automatically will be extended for one or more successive periods not to exceed one year each, unless Issuing Bank elects not to extend for any such additional period; provided, Issuing Bank shall not extend any such Letter of Credit if it has received written notice that an Event of Default has occurred and is continuing at the time Issuing Bank must elect to allow such extension; provided, further, in the event a Funding Default exists, Issuing Bank shall not be required to issue any Letter of Credit unless Issuing Bank has entered into arrangements satisfactory to it and Borrower Representative to eliminate Issuing Bank's risk with respect to the participation in Letters of Credit of the Defaulting Lender, including by cash collateralizing such Defaulting Lender's Pro Rata Share of the Letter of Credit Usage.

(b) Notice of Issuance. Whenever Borrower Representative desires the issuance of a Letter of Credit, it shall deliver to Administrative Agent an Issuance Notice no later than 12:00 p.m. (New York City time) at least five (5) Business Days, or in each case such shorter period as may be agreed to by Issuing Bank in any particular instance, in advance of the proposed date of issuance. Upon satisfaction or waiver of the conditions set forth in Section 3.2, Issuing Bank shall issue the requested Letter of Credit only in accordance with Issuing Bank's standard operating procedures. Upon the issuance of any Letter of Credit or amendment or modification to a Letter of Credit, Issuing Bank shall promptly notify each Lender of such issuance, which notice shall be accompanied by a copy of such Letter of Credit or amendment or modification to a Letter of Credit and the amount of such Lender's respective participation in such Letter of Credit pursuant to Section 2.3(e).

(c) Responsibility of Issuing Bank With Respect to Requests for Drawings and Payments. In determining whether to honor any drawing under any Letter of Credit by the beneficiary thereof, Issuing Bank shall be responsible only to examine the documents delivered under such Letter of Credit with reasonable care so as to ascertain whether they appear on their face to be in accordance with the terms and conditions of such Letter of Credit. As between Borrower Representative and Issuing Bank, Borrower Representative assumes all risks of the acts and omissions of, or misuse of the Letters of Credit issued by Issuing Bank, by the respective beneficiaries of such Letters of Credit. In furtherance and not in limitation of the foregoing, Issuing Bank shall not be responsible for: (i) the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for and issuance of any such Letter of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged; (ii) the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any such Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason; (iii) failure of the beneficiary of any such Letter of Credit to comply fully with any conditions required in order to draw upon such Letter of Credit; (iv) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex or otherwise, whether or not they be in cipher; (v) errors in interpretation

of technical terms; (vi) any loss or delay in the transmission or otherwise of any document required in order to make a drawing under any such Letter of Credit or of the proceeds thereof; (vii) the misapplication by the beneficiary of any such Letter of Credit of the proceeds of any drawing under such Letter of Credit; or (viii) any consequences arising from causes beyond the control of Issuing Bank, including any act or omission, whether rightful or wrongful, of any present or future de jure or de facto government or Governmental Authority; none of the above shall affect or impair, or prevent the vesting of, any of Issuing Bank's rights or powers hereunder. Without limiting the foregoing and in furtherance thereof, any action taken or omitted by Issuing Bank under or in connection with the Letters of Credit or any documents and certificates delivered thereunder, if taken or omitted in good faith, shall not give rise to any liability on the part of Issuing Bank to Borrower Representative. Notwithstanding anything to the contrary contained in this Section 2.4(c), Borrower Representative shall retain any and all rights it may have against Issuing Bank for any liability arising out of the gross negligence or willful misconduct of Issuing Bank.

(d) Reimbursement by Borrower Representative of Amounts Drawn or Paid Under Letters of Credit In the event Issuing Bank has determined to honor a drawing under a Letter of Credit, it shall immediately notify Borrower Representative and Administrative Agent, and Borrower Representative shall reimburse Issuing Bank on or before the Business Day immediately following the date on which such drawing is honored (the "**Reimbursement Date**") in an amount in Dollars and in same day funds equal to the amount of such honored drawing; provided, anything contained herein to the contrary notwithstanding, (i) unless Borrower Representative shall have notified Administrative Agent and Issuing Bank prior to 10:00 a.m. (New York City time) on the date such drawing is honored that Borrower Representative intends to reimburse Issuing Bank for the amount of such honored drawing with funds other than the proceeds of Revolving Loans, Borrower Representative shall be deemed to have given a timely Funding Notice to Administrative Agent requesting Lenders to make Revolving Loans that are Base Rate Loans on the Reimbursement Date in an amount in Dollars equal to the amount of such honored drawing, and (ii) subject to satisfaction or waiver of the conditions specified in Section 3.2, Lenders shall, on the Reimbursement Date, make Revolving Loans that are Base Rate Loans in the amount of such honored drawing, the proceeds of which shall be applied directly by Administrative Agent to reimburse Issuing Bank for the amount of such honored drawing; and provided further, if for any reason proceeds of Revolving Loans are not received by Issuing Bank on the Reimbursement Date in an amount equal to the amount of such honored drawing, Borrower Representative shall reimburse Issuing Bank, on demand, in an amount in same day funds equal to the excess of the amount of such honored drawing over the aggregate amount of such Revolving Loans, if any, which are so received. Nothing in this Section 2.3(d) shall be deemed to relieve any Lender from its obligation to make Revolving Loans on the terms and conditions set forth herein, and Borrower Representative shall retain any and all rights it may have against any Lender resulting from the failure of such Lender to make such Revolving Loans under this Section 2.4(d).

(e) Lenders' Purchase of Participations in Letters of Credit Immediately upon the issuance of each Letter of Credit, each Lender having a Revolving Loan Commitment shall be deemed to have purchased, and hereby agrees to irrevocably purchase, from Issuing Bank a participation in such Letter of Credit and any drawings honored thereunder in an amount equal to such Lender's Pro Rata Share (with respect to the Revolving Loan Commitments) of the maximum amount which is or at any time may become available to be drawn thereunder. In the event that Borrower Representative shall fail for any reason to reimburse Issuing Bank as provided in Section 2.3(d), Issuing Bank shall promptly notify each Lender of the unreimbursed amount of such honored drawing and of such Lender's respective participation therein based on such Lender's Pro Rata Share of the Revolving Loan Commitments. Each Lender shall make available to Administrative Agent for Issuing Bank an amount equal to its respective participation, in Dollars and in same day funds, at the office of Administrative Agent specified in such notice, not later than 12:00 p.m. (New York City time) on the first business day (under the laws of the jurisdiction in which such office of Issuing Bank is located) after the date notified by Administrative Agent. In the event that any Lender fails to make available to Administrative Agent for Issuing Bank on such business day the amount of such Lender's participation in such Letter of Credit as provided in this Section 2.3(e), Issuing Bank shall be entitled to recover such amount on demand from such Lender together with interest thereon for three (3) Business Days at the rate customarily used by Issuing Bank for the correction of errors among banks and

thereafter at the Base Rate. Nothing in this Section 2.3(e) shall be deemed to prejudice the right of any Lender to recover from Issuing Bank any amounts made available by such Lender to Issuing Bank pursuant to this Section in the event that it is determined that the payment with respect to a Letter of Credit in respect of which payment was made by such Lender constituted gross negligence or willful misconduct on the part of Issuing Bank as determined by a final non-appealable judgment of a court of competent jurisdiction. In the event Issuing Bank shall have been reimbursed by other Lenders pursuant to this Section 2.3(e) for all or any portion of any drawing honored by Issuing Bank under a Letter of Credit, such Issuing Bank shall distribute to each Lender which has paid all amounts payable by it under this Section 2.3(e) with respect to such honored drawing such Lender's Pro Rata Share of all payments subsequently received by Issuing Bank from Borrower Representative in reimbursement of such honored drawing when such payments are received. Any such distribution shall be made to a Lender at its primary address set forth below its name on Appendix B or at such other address as such Lender may request.

(f) Obligations Absolute. The obligation of Borrower Representative to reimburse Issuing Bank for drawings honored under the Letters of Credit issued by it and to repay any Revolving Loans made by Lenders pursuant to Section 2.3(d) and the obligations of Lenders under Section 2.3(e) shall be unconditional and irrevocable and shall be paid strictly in accordance with the terms hereof under all circumstances including any of the following circumstances: (i) any lack of validity or enforceability of any Letter of Credit; (ii) the existence of any claim, set-off, defense or other right which Borrower Representative or any Lender may have at any time against a beneficiary or any transferee of any Letter of Credit (or any Persons for whom any such transferee may be acting), Issuing Bank, Lender or any other Person or, in the case of a Lender, against Borrower Representative, whether in connection herewith, the transactions contemplated herein or any unrelated transaction (including any underlying transaction between Borrower Representative or one of its Subsidiaries and the beneficiary for which any Letter of Credit was procured); (iii) any draft or other document presented under any Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; (iv) payment by Issuing Bank under any Letter of Credit against presentation of a draft or other document which does not substantially comply with the terms of such Letter of Credit; (v) any adverse change in the business, operations, properties, assets, condition (financial or otherwise) or prospects of Holdings or any of its Subsidiaries; (vi) any breach hereof or any other Credit Document by any party thereto; (vii) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing; or (viii) the fact that an Event of Default or a Default shall have occurred and be continuing; provided, in each case, that payment by Issuing Bank under the applicable Letter of Credit shall not have constituted gross negligence or willful misconduct of Issuing Bank under the circumstances in question as determined by a final non-appealable judgment of a court of competent jurisdiction.

(g) Indemnification. Without duplication of any obligation of Borrower Representative under Section 10.2 or 10.3, in addition to amounts payable as provided herein, Borrower Representative hereby agrees to protect, indemnify, pay and save harmless Issuing Bank from and against any and all claims, demands, liabilities, damages, losses, costs, charges

and expenses (including reasonable fees, expenses and disbursements of counsel and allocated costs of internal counsel) which Issuing Bank may incur or be subject to as a consequence, direct or indirect, of (i) the issuance of any Letter of Credit by Issuing Bank, other than as a result of (1) the gross negligence or willful misconduct of Issuing Bank as determined by a final non-appealable judgment of a court of competent jurisdiction or (2) the wrongful dishonor by Issuing Bank of a proper demand for payment made under any Letter of Credit issued by it as determined by a final non-appealable judgment of a court of competent jurisdiction, or (ii) the failure of Issuing Bank to honor a drawing under any such Letter of Credit as a result of any Governmental Act.

2.4 Pro Rata Shares; Availability of Funds.

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

(b) Availability of Funds. Unless Administrative Agent shall have been notified by any Lender prior to the applicable Credit Date that such Lender does not intend to make available to Administrative Agent the amount of such Lender's Loan requested on such Credit Date, Administrative Agent may assume that such Lender has made such amount available to Administrative Agent on such Credit Date and Administrative Agent may, in its sole discretion, but shall not be obligated to, make available to Borrower Representative a corresponding amount on such Credit Date. If such corresponding amount is not in fact made available to Administrative Agent by such Lender, Administrative Agent shall be entitled to recover such corresponding amount on demand from such Lender together with interest thereon, for each day from such Credit Date until the date such amount is paid to Administrative Agent, at the customary rate set by Administrative Agent for the correction of errors among banks for three (3) Business Days and thereafter at the Base Rate. If such Lender does not pay such corresponding amount forthwith upon Administrative Agent's demand therefor, Administrative Agent shall promptly notify Borrower Representative and Borrower Representative shall immediately pay such corresponding amount to Administrative Agent together with interest thereon, for each day from such Credit Date until the date such amount is paid to Administrative Agent, at the rate applicable to such Loan. Nothing in this Section 2.4(b) shall be deemed to relieve any Lender from its obligation to fulfill its Revolving Loan Commitments hereunder or to prejudice any rights that Borrower Representative may have against any Lender as a result of any default by such Lender hereunder.

2.5 Use of Proceeds. The proceeds of Revolving Loans drawn on the Closing Date shall be used to repay outstanding obligations under the Existing Credit Agreement and pay transaction expenses. The proceeds of the Revolving Loans, Swing Line Loans and Letters of

Credit drawn after the Closing Date shall be applied by Borrower Representative for general corporate purposes (including payments of any dividends permitted under this Agreement) of Holdings and its Subsidiaries. No portion of the proceeds of any Credit Extension shall be used in any manner that causes or might cause such Credit Extension or the application of such proceeds to violate Regulation T, Regulation U or Regulation X of the Board of Governors of the Federal Reserve System or any other regulation thereof or to violate the Exchange Act.

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

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

(b) Register. Administrative Agent shall maintain at its Principal Office a register for the recordation of the names and addresses of Lenders and the Revolving Loan Commitments and Loans of each Lender from time to time (the "**Register**"). In the case of a Related Lender Assignment described in Section 10.6(e) that is not reflected in the Register, the assigning Lender shall maintain a comparable register, which shall be made available for inspection by Administrative Agent at any reasonable time and from time to time upon reasonable prior notice to such Lender. The Register shall be available for inspection by Borrower Representative or any Lender at any reasonable time and from time to time upon reasonable prior notice. Administrative Agent shall record in the Register the Revolving Loan Commitments and the Loans, and each repayment or prepayment in respect of the principal amount of the Loans, and any such recordation shall be conclusive and binding on Borrower Representative and each Lender, absent manifest error; provided, failure to make any such recordation, or any error in such recordation, shall not affect any Lender's Revolving Loan Commitments or Borrower Representative's Obligations in respect of any Loan. Borrower Representative hereby designates Credit Suisse to serve as Borrower Representative's agent solely for purposes of maintaining the Register as provided in this Section 2.6, and Borrower Representative hereby agrees that, to the extent Credit Suisse serves in such capacity, Credit Suisse and its officers, directors, employees, agents and affiliates shall constitute "Indemnitees."

(c) Notes. If so requested by any Lender by written notice to Borrower Representative at least two (2) Business Days prior to the Closing Date, or at any time thereafter, the Borrowers shall execute and deliver to such Lender (and/or, if applicable and if so specified in such notice, to any Person who is an assignee of such Lender pursuant to Section 10.6, other than an assignee party to a Related Lender Assignment described in Section 10.6(c)(i)) on the Date (or, if such notice is delivered after the Closing Date, promptly after Borrower

Representative's receipt of such notice) a Note or Notes to evidence such Lender's Revolving Loan or Swing Line Loan, as the case may be.

2.7 Interest on Loans.

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

(i) if a Base Rate Loan, at the Base Rate plus the Applicable Margin; or

(ii) if a Eurodollar Rate Loan, at the Adjusted Eurodollar Rate plus the Applicable Margin; and

(iii) in the case of Swing Line Loans, at the Base Rate plus the Applicable Margin.

(b) The basis for determining the rate of interest with respect to any Loan (except a Swing Line Loan which can be made and maintained as Base Rate Loans only), and the Interest Period with respect to any Eurodollar Rate Loan, shall be selected by Borrower Representative and notified to Administrative Agent and Lenders pursuant to the applicable Funding Notice or Conversion/Continuation Notice, as the case may be. If on any day a Loan is outstanding with respect to which a Funding Notice or Conversion/Continuation Notice has not been delivered to Administrative Agent in accordance with the terms hereof specifying the applicable basis for determining the rate of interest, then for that day such Loan shall be a Base Rate Loan.

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

which an interest rate is then being

determined for the applicable Interest Period and shall promptly give notice thereof (in writing or by telephone confirmed in writing) to Borrower Representative and each Lender.

(d) Interest payable pursuant to Section 2.7(a) shall be computed (i) in the case of Base Rate Loans at times when the Base Rate is based on the Prime Rate on the basis of a 365-day or 366-day year, as the case may be, and (ii) in the case of Eurodollar Rate Loans, and Base Rate Loans at times when the Base Rate is based on the Federal Funds Effective Rate, on the basis of a 360-day year, in each case for the actual number of days elapsed in the period during which it accrues. In computing interest on any Loan, the date of the making of such Loan or the first day of an Interest Period applicable to such Loan or, with respect to a Base Rate Loan being converted from a Eurodollar Rate Loan, the date of conversion of such Eurodollar Rate Loan to such Base Rate Loan, as the case may be, shall be included, and the date of payment of such Loan or the expiration date of an Interest Period applicable to such Loan or, with respect to a Base Rate Loan being converted to a Eurodollar Rate Loan, the date of conversion of such Base Rate Loan to such Eurodollar Rate Loan, as the case may be, shall be excluded; provided, if a Loan is repaid on the same day on which it is made, one day's interest shall be paid on that Loan.

(e) Except as otherwise set forth herein, interest on each Loan shall be payable in arrears on and to (i) each Interest Payment Date applicable to such Loan; (ii) upon any prepayment of such Loan that is a Eurodollar Rate Loan, whether voluntary or mandatory, to the extent accrued on the amount being prepaid; and (iii) at maturity, including final maturity.

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

(g) Interest payable pursuant to Section 2.7(f) shall be computed on the basis of a 360-day year for the actual number of days elapsed in the period during which it accrues, and shall be payable on demand or, if no demand is made, on the date on which the related drawing under a Letter of Credit is reimbursed in full. Promptly upon receipt by Issuing Bank of any payment of interest pursuant to Section 2.7(f), Issuing Bank shall distribute to each Lender, out of the interest received by Issuing Bank in respect of the period from the date such drawing is honored to but excluding the date on which Issuing Bank is reimbursed for the amount of such drawing (including any such reimbursement out of the proceeds of any Revolving Loans), the amount that such Lender would have been entitled to receive in respect of the letter of credit fee that would have been payable in respect of such Letter of Credit for such period if no drawing had been honored under such Letter of Credit. In the event Issuing Bank shall have been

reimbursed by Lenders for all or any portion of such honored drawing, Issuing Bank shall distribute to each Lender which has paid all amounts payable by it under Section 2.3(e) with respect to such honored drawing such Lender's Pro Rata Share of any interest received by Issuing Bank in respect of that portion of such honored drawing so reimbursed by Lenders for the period from the date on which Issuing Bank was so reimbursed by Lenders to but excluding the date on which such portion of such honored drawing is reimbursed by Borrower Representative.

2.8 Conversion/Continuation.

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

(i) to convert at any time all or any part of any Revolving Loan equal to $2,000,000 and integral multiples of $500,000 in excess of that amount from one Type of Loan to another Type of Loan; provided, a Eurodollar Rate Loan may only be converted on the expiration of the Interest Period applicable to such Eurodollar Rate Loan unless Borrower Representative shall pay all amounts due under Section 2.17 in connection with any such conversion; or

(ii) upon the expiration of any Interest Period applicable to any Eurodollar Rate Loan, to continue all or any portion of such Revolving Loan equal to $2,000,000 and integral multiples of $500,000 in excess of that amount as a Eurodollar Rate Loan.

(b) Borrower Representative shall deliver a Conversion/Continuation Notice to Administrative Agent no later than 10:00 a.m. (New York City time) at least one Business Day in advance of the proposed conversion date (in the case of a conversion to a Base Rate Loan) and at least three (3) Business Days in advance of the proposed conversion/continuation date (in the case of a conversion to, or a continuation of, a Eurodollar Rate Loan). Except as otherwise provided herein, a Conversion/Continuation Notice for conversion to, or continuation of, any Eurodollar Rate Loans (or telephonic notice in lieu thereof) shall be irrevocable, and Borrower Representative shall be bound to effect a conversion or continuation in accordance therewith.

2.9 Default Interest. Upon the occurrence and during the continuance of an Event of Default under Sections 8.1(a), 8.1(f) or 8.1(g), the principal amount of all Loans outstanding and, to the extent permitted by applicable law, any interest payments on the Loans not paid when due and any fees and other amounts then due and payable hereunder, shall thereafter bear interest (including post-petition interest in any proceeding under the Bankruptcy Code or other applicable bankruptcy laws) payable on demand at a rate that is 2% per annum in excess of the

interest rate otherwise payable hereunder with respect to the applicable Loans (or, in the case of any such fees and other amounts, at a rate which is 2% per annum in excess of the interest rate otherwise payable hereunder for Base Rate Loans); provided, in the case of Eurodollar Rate Loans, upon the expiration of the Interest Period in effect at the time any such increase in interest rate is effective such Eurodollar Rate Loans shall thereupon become Base Rate Loans and shall thereafter bear interest payable upon demand at a rate which is 2% per annum in excess of the interest rate otherwise payable hereunder for Base Rate Loans. Payment or acceptance of the increased rates of interest provided for in this Section 2.9 is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of Administrative Agent, Collateral Agent or any Lender.

2.10 Fees.

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

(i) (A) if the Utilization Rate for the applicable Fiscal Quarter is less than or equal to 0.333, a commitment fee equal to 0.375% *times* the average of the daily difference between (1) the Revolving Loan Commitments, and (2) the sum of (x) the aggregate principal amount of outstanding Revolving Loans (but not any outstanding Swing Line Loans) plus (y) the Letter of Credit Usage and (B) if the Utilization Rate for the applicable Fiscal Quarter is greater than 0.333, a commitment fee equal to 0.250% *times* the average of the daily difference between (1) the Revolving Loan Commitments, and (2) the sum of (x) the aggregate principal amount of outstanding Revolving Loans (but not any outstanding Swing Line Loans) plus (y) the Letter of Credit Usage; and

(ii) letter of credit fees equal to (1) the Applicable Margin for Revolving Loans that are Eurodollar Rate Loans (plus 2% during all times the rate of interest on the principal of the Loans is increased pursuant to Section 2.9), times (2) the average aggregate daily maximum amount available to be drawn under all such Letters of Credit (regardless of whether any conditions for drawing could then be met and determined as of the close of business on any date of determination).

All fees referred to in this Section 2.10(a) shall be paid to Administrative Agent at its Principal Office and upon receipt, Administrative Agent shall promptly distribute to each Lender its Pro Rata Share thereof.

(b) Borrower Representative agrees to pay directly to Issuing Bank, for its own account, the following fees:

(i) a fronting fee equal to 0.125%, per annum, times the average aggregate daily maximum amount available to be drawn under all Letters of Credit (determined as of the close of business on any date of determination); and

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

(c) All fees referred to in Section 2.10(a) and 2.10(b)(i) shall be calculated on the basis of a 360-day year and the actual number of days elapsed and shall be payable quarterly in arrears on the last Business Day in each of March, June, September and December of each year during the Revolving Loan Commitment Period, commencing on June 30, 2007, and on the Revolving Loan Commitment Termination Date.

(d) In addition to any of the foregoing fees, Borrowers agree to pay to Arranger and Agents such other fees and other payments in the amounts and at the times separately agreed upon.

2.11 Determination of Borrowing Base.

(a) Eligible Accounts. On any date of determination of the Borrowing Base, all of the Accounts owned by any Borrower, as applicable, and reflected in the most recent Borrowing Base Certificate delivered by the Borrower Representative to the Collateral Agent and the Administrative Agent, shall be "**Eligible Accounts**" for the purposes of this Agreement, except any Account to which any of the exclusionary criteria set forth below applies. Eligible Accounts shall not include any of the following Accounts:

(i) any Account in which the Collateral Agent, on behalf of the Secured Parties, does not have a valid perfected First Priority Lien;

(ii) any Account that is not owned by a Credit Party;

(iii) any Account due from an Account Debtor that is not domiciled in the United States or Canada and (if not a natural person) organized

under the laws of the United States or Canada or any political subdivision thereof;

(iv) any Account that is payable in any currency other than Dollars;

(v) any Account that does not arise from the sale of goods or the performance of services by such Credit Party in the ordinary course of its business;

(vi) any Account that does not comply with all applicable legal requirements, including, without limitation, all laws, rules, regulations and orders of any Governmental Authority;

(vii) any Account which is owed by an Account Debtor located in any jurisdiction which requires filing of a "Notice of Business Activities Report" or other similar report in order to permit the applicable Borrower to seek judicial enforcement in such jurisdiction of payment of such Account, unless such Borrower (at the time the Account was created and at all times thereafter) (i) has qualified to do business in such jurisdiction and such qualification enables Borrower to seek judicial recourse in such jurisdiction, (ii) had filed and has filed and maintained effective such report with the appropriate office or agency of in such jurisdictions, as applicable, or (iii) was and has continued to be exempt from filing such report and has provided the Collateral Agent with satisfactory evidence thereof;

(viii) any Account (a) upon which the right of a Borrower, as applicable, to receive payment is not absolute or is contingent upon the fulfillment of any condition whatsoever unless such condition is satisfied or (b) as to which such Borrower is not able to bring suit or otherwise enforce its remedies against the Account Debtor through judicial or administrative process or (c) that represents a progress billing consisting of an invoice for goods sold or used or services rendered pursuant to a contract under which the Account Debtor's obligation to pay that invoice is subject to a Borrower's or any Guarantor's, as applicable, completion of further performance under such contract or is subject to the equitable lien of a surety bond issuer;

(ix) to the extent that any defense, counterclaim, setoff or dispute is asserted as to such Account, it being understood that the amount of

any such defense, counterclaim, setoff or dispute shall be disclosed to the Collateral Agent and that the remaining balance of the Account

shall be eligible;

(x) [RESERVED]

(xi) any Account with respect to which an invoice or other electronic transmission constituting a request for payment, reasonably acceptable to the Collateral Agent in form and substance, has not been sent on a timely basis to the applicable Account Debtor according to the normal invoicing and timing procedures of a Borrower, as applicable;

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

(xiii) to the extent Holdings or any Subsidiary is liable for goods sold or services rendered by the applicable Account Debtor to any Credit Party or any Subsidiary of a Credit Party but only to the extent of the potential offset;

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

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

(1) that portion of any Account that is more than sixty (60) days past due according to its original terms of sale or which has been written off or designated as uncollectible by such Borrower (and, for the avoidance of doubt, the remainder of any such Account shall not be in default for purposes hereof unless all Accounts of the applicable Account Debtor are ineligible pursuant to clause (xvi) below); or

(2) the Account Debtor obligated upon such Account suspends business, makes a general assignment for the benefit of

creditors, has become insolvent, admits in writing its inability to pay its bills as they become due or fails to pay its debts generally as they come due; or

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

(4) the payment terms (at inception or as modified from time to time) of any Account are not reasonably satisfactory to the Administrative Agent or Collateral Agent (it being understood that Borrowers' customary terms as of the Closing Date are satisfactory to the Administrative Agent and the Collateral Agent);

(xvi) any Account that is the obligation of an Account Debtor (other than an individual) if 50% or more of the Dollar amount of all Accounts owing by that Account Debtor are ineligible under the other criteria set forth in clause (xv) above;

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

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

(xix) to the extent (A) the Accounts owing from such Account Debtor and its Affiliates to the Borrowers exceeds 20% of the aggregate of all Eligible Accounts or (B) exceeds any credit limit established by the Collateral Agent, in good faith and in the exercise of reasonable (from the perspective of a secured asset-based lender) business judgment, following prior notice of such limit by the Collateral Agent to the Borrower Representative;

(xx) that portion of any Account (1) in respect of which there has been, or should have been, established by a Borrower or any Guarantor a contra account, whether in respect of contractual allowances with respect to such Account, audit adjustment, anticipated discounts or otherwise or (2) which is due from an Account Debtor to whom any Credit Party owes a trade payable, but only to the extent of such trade payable;

(xxi) any Account on which the Account Debtor is a Governmental Authority, unless a Credit Party, as applicable, has assigned its rights to payment of such Account to the Administrative Agent pursuant to the Assignment of Claims Act of 1940, as amended, in the case of a federal Governmental Authority, and pursuant to applicable law, if any, in the case of any other Governmental Authority, and such assignment has been accepted and acknowledged by the appropriate government officers; or

(xxii) any Account which is due from an Account Debtor that has been structured as note payable or has been restructured as a note payable.

(b) Eligible Inventory. For purposes of this Agreement, "**Eligible Inventory**" shall mean any marketable raw materials and unsold finished Inventory of the Borrowers held for sale in the ordinary course, but shall exclude any Inventory to which any of the exclusionary criteria set forth below applies. Eligible Inventory shall not include any Inventory of any Borrower that:

(i) the Collateral Agent, on behalf of Secured Parties, does not have a valid, perfected First Priority Lien on such Inventory;

(ii) (1) is stored at a leased location where the aggregate value of Inventory exceeds $250,000 unless the Collateral Agent has given its prior consent thereto or unless either (x) a Collateral Access Agreement has been delivered to the Collateral Agent, or (y) Reserves reasonably satisfactory to the Collateral Agent have been established with respect thereto or (2) is stored with a bailee or warehouseman where the aggregate value of Inventory exceeds $250,000 unless either (x) an acknowledged bailee waiver letter which is in form and substance satisfactory to the Collateral Agent and the Administrative Agent has been received by the Collateral Agent or (y) Reserves reasonably satisfactory to the Collateral Agent have been established with respect thereto, or (3) is located at an owned location subject to a mortgage in favor of a lender other than the Collateral Agent (but excluding any mortgage in favor of the Term Loan Collateral Agent so long as such location is also subject to a mortgage in favor of the Collateral Agent) where the aggregate value of Inventory exceeds $250,000 unless either (x) mortgagee waiver which is in form and substance satisfactory to the Collateral Agent and the Administrative Agent has been delivered to the Collateral Agent or (y) Reserves reasonably satisfactory to the Collateral Agent have been established with respect thereto;

(iii) is placed on consignment, unless a valid consignment agreement which is reasonably satisfactory to Collateral Agent is in place with respect to such Inventory and such consignment has been perfected under the relevant UCC;

(iv) is covered by a negotiable document of title, unless such document has been delivered to the Collateral Agent with all necessary endorsements, free and clear of all Liens except those in favor of the Collateral Agent and the Lenders and landlords, carriers, bailees and warehousemen if clause (ii) above has been complied with;

(v) has been returned by a customer due to a claimed defect or is to be returned to suppliers;

(vi) is, in the Collateral Agent's reasonable (from the perspective of a secured asset-based lender) business judgment, slow moving, used, obsolete, unsalable, discontinued, shopworn, seconds, damaged or unfit for sale at prices at least approximating cost, or unacceptable due to age, type, category and/or quantity;

(vii) consists of display items, samples or packing or shipping materials, manufacturing supplies, work-in process Inventory or replacement parts;

(viii) is not of a type held for sale in the ordinary course of any Credit Party's business;

(ix) is not located in the United States or Canada or is in transit;

(x) which is being processed off-site by a third party;

(xi) for which any seller has asserted reclamation rights;

(xii) breaches any of the covenants, representations or warranties pertaining to Inventory set forth in the Credit Documents;

(xiii) consists of Hazardous Material or goods that can be transported or sold only with licenses that are not readily available;

(xiv) is not covered by casualty insurance maintained as required by Section 5.5; or

(xv) is subject to any licensing arrangement the effect of which would be to limit the ability of Collateral Agent, or any person selling the Inventory on behalf of Collateral Agent, to sell such Inventory in enforcement of the Collateral Agent's Liens, without further consent or payment to the licensor or other.

2.12 Voluntary Prepayments/Commitment Reductions.

(a) Voluntary Prepayments.

(i) Any time and from time to time:

(1) with respect to Base Rate Loans, Borrower Representative may prepay any such Loans on any Business Day in whole or in part, in an aggregate minimum amount of $2,000,000 and integral multiples of $500,000 in excess of that amount;

(2) with respect to Eurodollar Rate Loans, Borrower Representative may prepay any such Loans on any Business Day in whole or in part in an aggregate minimum amount of $2,000,000 and integral multiples of $500,000 in excess of that amount; and

(3) with respect to Swing Line Loans, Borrower Representative may prepay any such Loans on any Business Day in whole or in part in an aggregate minimum amount of $1,000,000, and in integral multiples of $500,000 in excess of that amount.

(ii) All such prepayments shall be made:

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

(2) upon not less than three (3) Business Days' prior written or telephonic notice in the case of Eurodollar Rate Loans; and

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

in each case given to Administrative Agent or Swing Line Lender, as the case may be, by 12:00 p.m. (New York City time) on the date required and, if given by telephone, promptly confirmed in writing to Administrative Agent (and Administrative Agent will promptly notify each Lender) or Swing Line Lender, as the case may be. Upon the giving of any such notice (which notice shall be irrevocable), the principal amount of the Loans specified in such notice shall become due and payable on the prepayment date specified therein. Any such voluntary prepayment shall be applied as specified in Section 2.14(a).

(b) Voluntary Commitment Reductions.

(i) Borrower Representative may, upon not less than three (3) Business Days' prior written or telephonic notice confirmed in writing to Administrative Agent (and Administrative Agent will promptly notify each applicable Lender), at any time and from time to time terminate in whole or permanently reduce in part, without premium or penalty, the Revolving Loan Commitments in an amount up to the amount by which the Revolving Loan Commitments exceed the Total Utilization of Revolving Loan Commitments at the time of such proposed termination or reduction; provided, any such partial reduction of the Revolving Loan Commitments shall be in an aggregate minimum amount of $10,000,000 and integral multiples of $1,000,000 in excess of that amount.

(ii) Borrower Representative's notice to Administrative Agent (which notice shall be irrevocable) shall designate the date (which shall be a Business Day) of such termination or reduction and the amount of any partial reduction, and such termination or reduction of the Revolving Loan Commitments shall be effective on the date specified in Borrower Representative's notice and shall reduce the Revolving Loan

Commitment of each Lender proportionately to its Pro Rata Share thereof.

2.13 Mandatory Prepayments.

(a) In the event of the termination of all the Revolving Loan Commitments, Borrowers shall, on the date of such termination, repay or prepay all its outstanding Revolving Borrowings and all outstanding Swingline Loans and replace all outstanding Letters of Credit or cash collateralize all outstanding Letters of Credit.

(b) In the event that the sum of all Lenders' Revolving Exposures exceeds the lesser of the Revolving Loan Commitments and the Borrowing Base, in each case, then in effect, Borrowers shall, without notice or demand, immediately *first*, repay or prepay Revolving Borrowings, and *second*, cash collateralize outstanding Letters of Credit, in each case, in an aggregate amount sufficient to eliminate such excess; provided, however, that (notwithstanding anything to the contrary in this clause (b)) if the sum of all Lenders' Revolving Exposures exceeds the Borrowing Base then in effect as a direct result of the establishment of a Reserve or credit limit (pursuant to Section 2.11(a)(xix)(B)) by Collateral Agent or Administrative Agent, as applicable, for which Borrower Representative did not have at least 5 days prior notice, Borrowers shall, without notice or demand, within 5 days of the occurrence of such excess, *first*, repay or prepay Revolving Borrowings, and *second*, cash collateralize outstanding Letters of Credit, in each case, in an aggregate amount sufficient to eliminate such excess.

(c) In the event that the aggregate Letter of Credit Usage exceeds the Letter of Credit Sublimit then in effect, Borrower shall, without notice or demand, immediately cash collateralize outstanding Letters of Credit, in each case, in an aggregate amount sufficient to eliminate such excess.

(d) In the event an Account Control Event has occurred and is continuing (as contemplated by Section 5.15), the Credit Parties shall pay all proceeds of Collateral into the Collection Account, for application in accordance with Section 2.15(b).

2.14 Application of Prepayments/Reductions.

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

first, to repay outstanding Swing Line Loans to the full extent thereof (without a corresponding reduction of the Revolving Loan Commitments by the amount of such prepayment);

second, to repay outstanding Revolving Loans to the full extent thereof (without a corresponding reduction of the Revolving Loan Commitments by the amount of such repayment);

third, to prepay outstanding reimbursement obligations with respect to Letters of Credit (without a corresponding reduction of the Revolving Loan Commitments by the amount of such prepayment); and

fourth, to cash collateralize Letters of Credit (without a corresponding reduction of the Revolving Loan Commitments by the amount of such cash collateralization);

(b) Application of Mandatory Prepayments. Any amount required to be paid pursuant to Section 2.13 shall be applied as follows:

first, to prepay outstanding Swing Line Loans to the full extent thereof (without a corresponding reduction of the Revolving Loan Commitments by the amount of such prepayment);

second, to prepay the Revolving Loans to the full extent thereof (without a corresponding reduction of the Revolving Loan Commitments by the amount of such prepayment);

third, to prepay outstanding reimbursement obligations with respect to Letters of Credit (without a corresponding reduction of the Revolving Loan Commitments by the amount of such prepayment); and

fourth, to cash collateralize Letters of Credit (without a corresponding reduction of the Revolving Loan Commitments by the amount of such cash collateralization);

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

2.15 General Provisions Regarding Payments.

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

(b) All payments in respect of the principal amount of any Loan (other than voluntary prepayments of Revolving Loans) shall be accompanied by payment of accrued interest on the principal amount being repaid or prepaid.

(c) Administrative Agent shall promptly distribute to each Lender at such address as such Lender shall indicate in writing, such Lender's applicable Pro Rata Share of all payments and prepayments of principal and interest due hereunder, together with all other amounts due thereto, including, without limitation, all fees payable with respect thereto, to the extent received by Administrative Agent.

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

(e) Subject to the provisos set forth in the definition of "Interest Period," whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, such payment shall be made on the next succeeding Business Day and such extension of time shall be included in the computation of the payment of interest hereunder or of the Revolving Loan Commitment fees hereunder.

(f) Administrative Agent, at its sole discretion, shall deem any payment by or on behalf of Borrower Representative hereunder that is not made in same day funds prior to 12:00 p.m. (New York City time) to be a non-conforming payment. Any such payment shall not be deemed to have been received by Administrative Agent until the later of (i) the time such funds become available funds, and (ii) the applicable next Business Day. Administrative Agent shall give prompt telephonic notice to Borrower Representative and each applicable Lender (confirmed in writing) if any payment is non-conforming. Any non-conforming payment may constitute or become a Default or Event of Default in accordance with the terms of Section 8.1(a). Interest shall continue to accrue on any principal as to which a non-conforming payment is made until such funds become available funds (but in no event less than the period from the date of such payment to the next succeeding applicable Business Day) at the rate determined pursuant to Section 2.9 from the date such amount was due and payable until the date such amount is paid in full.

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

2.16 Ratable Sharing. Lenders hereby agree among themselves that, except as otherwise provided in the Collateral Documents with respect to amounts realized from the exercise of rights with respect to Liens on the Collateral, if any of them shall, whether by voluntary payment (other than a voluntary prepayment of Loans made and applied in accordance with the terms hereof), through the exercise of any right of set-off or banker's lien, by counterclaim or cross action or by the enforcement of any right under the Credit Documents or

otherwise, or as adequate protection of a deposit treated as cash collateral under the Bankruptcy Code, receive payment or reduction of a proportion of the aggregate amount of principal, interest, amounts payable in respect of Letters of Credit, fees and other amounts then due and owing to such Lender hereunder or under the other Credit Documents (collectively, the "**Aggregate Amounts Due**" to such Lender) which is greater than the proportion received by any other Lender in respect of the Aggregate Amounts Due to such other Lender, then the Lender receiving such proportionately greater payment shall (a) notify Administrative Agent and each other Lender of the receipt of such payment and (b) apply a portion of such payment to purchase participations (which it shall be deemed to have purchased from each seller of a participation simultaneously upon the receipt by such seller of its portion of such payment) in the Aggregate Amounts Due to the other Lenders so that all such recoveries of Aggregate Amounts Due shall be shared by all Lenders in proportion to the Aggregate Amounts Due to them; provided, if all or part of such proportionately greater payment received by such purchasing Lender is thereafter recovered from such Lender upon the bankruptcy or reorganization of Borrower Representative or otherwise, those purchases shall be rescinded and the purchase prices paid for such participations shall be returned to such purchasing Lender ratably to the extent of such recovery, but without interest. Borrower Representative expressly consents to the foregoing arrangement and agrees that any holder of a participation so purchased may, so long as an Event of Default has occurred and is continuing, exercise any and all rights of banker's lien, set-off or counterclaim with respect to any and all monies owing by Borrower Representative to that holder with respect thereto as fully as if that holder were owed the amount of the participation held by that holder.

2.17 Making or Maintaining Eurodollar Rate Loans.

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

(b) Illegality or Impracticability of Eurodollar Rate Loans. In the event that on any date any Lender shall have determined (which determination shall be final and conclusive and binding upon all parties hereto but shall be made only after consultation with Borrower Representative and Administrative Agent) that the making, maintaining or continuation of its Eurodollar Rate Loans (i) has become unlawful as a result of compliance by such Lender in good

faith with any law, treaty, governmental rule, regulation, guideline or order (or would conflict with any such treaty, governmental rule, regulation, guideline or order not having the force of law even though the failure to comply therewith would not be unlawful), or (ii) has become impracticable, as a result of contingencies occurring after the date hereof which materially and adversely affect the London interbank market or the position of such Lender in that market, then, and in any such event, such Lender shall be an "**Affected Lender**" and it shall on that day give notice (by telefacsimile or by telephone confirmed in writing) to Borrower Representative and Administrative Agent of such determination (which notice Administrative Agent shall promptly transmit to each other Lender). Thereafter (1) the obligation of the Affected Lender to make Loans as, or to convert Loans to, Eurodollar Rate Loans shall be suspended until such notice shall be withdrawn by the Affected Lender, (2) to the extent such determination by the Affected Lender relates to a Eurodollar Rate Loan then being requested by Borrower Representative pursuant to a Funding Notice or a Conversion/Continuation Notice, the Affected Lender shall make such Loan as (or continue such Loan as or convert such Loan to, as the case may be) a Base Rate Loan, (3) the Affected Lender's obligation to maintain its outstanding Eurodollar Rate Loans (the "**Affected Loans**") shall be terminated at the earlier to occur of the expiration of the Interest Period then in effect with respect to the Affected Loans or when required by law, and (4) the Affected Loans shall automatically convert into Base Rate Loans on the date of such termination. Notwithstanding the foregoing, to the extent a determination by an Affected Lender as described above relates to a Eurodollar Rate Loan then being requested by Borrower Representative pursuant to a Funding Notice or a Conversion/Continuation Notice, Borrower Representative shall have the option, subject to the provisions of Section 2.17(c), to rescind such Funding Notice or Conversion/Continuation Notice as to all Lenders by giving notice (by telefacsimile or by telephone confirmed in writing) to Administrative Agent of such rescission on the date on which the Affected Lender gives notice of its determination as described above (which notice of rescission Administrative Agent shall promptly transmit to each other Lender). Except as provided in the immediately preceding sentence, nothing in this Section 2.17(b) shall affect the obligation of any Lender other than an Affected Lender to make or maintain Loans as, or to convert Loans to, Eurodollar Rate Loans in accordance with the terms hereof.

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

Period applicable to that Loan; or (iii) if any prepayment of any of its Eurodollar Rate Loans is not made on any date specified in a notice of prepayment given by Borrower Representative.

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

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

2.18 Increased Costs; Capital Adequacy.

(a) Compensation For Increased Costs and Taxes. Subject to the provisions of Section 2.20 (which shall be controlling with respect to the matters covered thereby), in the event that any Lender (which term shall include Issuing Bank for purposes of this Section 2.18(a)) shall determine (which determination shall, absent manifest error, be final and conclusive and binding upon all parties hereto) that any law, treaty or governmental rule, regulation or order, or any change therein or in the interpretation, administration or application thereof (including the introduction of any new law, treaty or governmental rule, regulation or order), or any determination of a court or Governmental Authority, in each case that becomes effective after the Closing Date, or compliance by such Lender with any guideline, request or directive issued or made after the Closing Date by any central bank, other Governmental Authority or quasi-governmental authority (whether or not having the force of law) (any such event, a "**Change in Law**"): (i) subjects such Lender (or its applicable lending office) to any additional Tax with respect to this Agreement or any of the other Credit Documents or any of its obligations hereunder or thereunder or any payments to such Lender (or its applicable lending office) of principal, interest, fees or any other amount payable hereunder; (ii) imposes, modifies or holds applicable any reserve (including any marginal, emergency, supplemental, special or other reserve), special deposit, compulsory loan, FDIC insurance or similar requirement against assets held by, or deposits or other liabilities in or for the account of, or advances or loans by, or other credit extended by, or any other acquisition of funds by, any office of such Lender (other than any such reserve or other requirements with respect to Eurodollar Rate Loans that are reflected in the definition of Adjusted Eurodollar Rate); or (iii) imposes any other condition (other than with respect to a Tax matter) on or affecting such Lender (or its applicable lending office) or its obligations hereunder or the London interbank market; and the result of any of the foregoing is to increase the cost to such Lender of agreeing to make, making or maintaining Loans hereunder or to reduce any amount received or receivable by such Lender (or its applicable lending office) with respect thereto; then, in any such case, Borrower Representative

shall promptly pay to such Lender, upon receipt of the statement referred to in the next sentence, such additional amount or amounts (in the form of an increased rate of, or a different method of calculating, interest or otherwise as such Lender in its sole discretion shall determine) as may be necessary to compensate such Lender for any such increased cost or reduction in amounts received or receivable hereunder. Such Lender shall deliver to Borrower Representative (with a copy to Administrative Agent) a written statement, setting forth in reasonable detail the basis for calculating the additional amounts owed to such Lender under this Section 2.18(a), which statement shall be conclusive and binding upon all parties hereto absent manifest error.

(b) Capital Adequacy Adjustment. In the event that any Lender (which term shall include Issuing Bank for purposes of this Section 2.18(b)) shall have determined that any Change in Law regarding capital adequacy has or would have the effect of reducing the rate of return on the capital of such Lender or any corporation controlling such Lender as a consequence of, or with reference to, such Lender's Loans or Revolving Loan Commitments or Letters of Credit, or participations therein or other obligations hereunder with respect to the Loans or the Letters of Credit to a level below that which such Lender or such controlling corporation could have achieved but for such adoption, effectiveness, phase-in, applicability, change or compliance (taking into consideration the policies of such Lender or such controlling corporation with regard to capital adequacy), then from time to time, within five (5) Business Days after receipt by Borrower Representative from such Lender of the statement referred to in the next sentence, Borrower Representative shall pay to such Lender such additional amount or amounts as will compensate such Lender or such controlling corporation on an after-tax basis for such reduction. Such Lender shall deliver to Borrower Representative (with a copy to Administrative Agent) a written statement, setting forth in reasonable detail the basis for calculating the additional amounts owed to Lender under this Section 2.18(b), which statement shall be conclusive and binding upon all parties hereto absent manifest error.

2.19 Taxes; Withholding, etc.

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

(b) Withholding of Taxes. If any Credit Party or any other Person is required by law to make any deduction or withholding on account of any Tax from any sum paid or payable by any Credit Party to Administrative Agent or any Lender (which term shall include Issuing Bank for purposes of this Section 2.19(b)) under any of the Credit Documents: (i) Borrower Representative shall notify Administrative Agent of any such requirement or any change in any such requirement as soon as Borrower Representative becomes aware of it; (ii)

Borrower Representative shall pay any such Tax before the date on which penalties attach thereto, such payment to be made (if the liability to pay is imposed on any Credit Party) for its own account or (if that liability is imposed on Administrative Agent or such Lender, as the case may be) on behalf of and in the name of Administrative Agent or such Lender; (iii) the sum payable by such Credit Party in respect of which the relevant deduction, withholding or payment is required shall be increased to the extent necessary to ensure that, after the making of that deduction, withholding or payment, Administrative Agent or such Lender, as the case may be, receives on the due date a net sum equal to what it would have received had no such deduction, withholding or payment been required or made; and (iv) within thirty (30) days after paying any sum from which it is required by law to make any deduction or withholding, and within thirty (30) days after the due date of payment of any Tax which it is required by clause (ii) above to pay, Borrower Representative shall deliver to Administrative Agent evidence satisfactory to the other affected parties of such deduction, withholding or payment and of the remittance thereof to the relevant taxing or other authority; provided, no such additional amount shall be required to be paid to any Lender under clause (iii) above except to the extent that any change after the date hereof (in the case of each Lender listed on the signature pages hereof on the Closing Date) or after the effective date of the Assignment Agreement pursuant to which such Lender became a Lender (in the case of each other Lender) in any such requirement for a deduction, withholding or payment as is mentioned therein shall result in an increase in the rate of such deduction, withholding or payment from that in effect at the date hereof or at the date of such Assignment Agreement, as the case may be, in respect of payments to such Lender.

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

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

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

2.20 (setting forth in reasonable detail the basis for requesting such amount) submitted by such Lender to Borrower Representative (with a copy to Administrative Agent) shall be conclusive absent manifest error.

2.21 Defaulting Lenders. Anything contained herein to the contrary notwithstanding, in the event that any Lender, other than at the direction or request of any regulatory agency or authority, defaults (a "**Defaulting Lender**") in its obligation to fund (a "**Funding Default**") any Revolving Loan or its portion of any unreimbursed payment under Section 2.2(b)(iv) or 2.3(e) (in each case, a "**Defaulted Loan**"), then (a) during any Default Period with respect to such Defaulting Lender, such Defaulting Lender shall be deemed not to be a "Lender" for purposes of voting on any matters (including the granting of any consents or waivers) with respect to any of the Credit Documents; (b) to the extent permitted by applicable law, until such time as the Default Excess with respect to such Defaulting Lender shall have been reduced to zero, (i) any voluntary prepayment of the Revolving Loans shall, if Borrower Representative so directs at the time of making such voluntary prepayment, be applied to the Revolving Loans of other Lenders as if such Defaulting Lender had no Revolving Loans outstanding and the Revolving Exposure of such Defaulting Lender were zero, and (ii) any mandatory prepayment of the Revolving Loans shall, if Borrower Representative so directs at the time of making such mandatory prepayment, be applied to the Revolving Loans of other Lenders (but not to the Revolving Loans of such Defaulting Lender) as if such Defaulting Lender had funded all Defaulted Loans of such Defaulting Lender, it being understood and agreed that Borrower Representative shall be entitled to retain any portion of any mandatory prepayment of the Revolving Loans that is not paid to such Defaulting Lender solely as a result of the operation of the provisions of this clause (b); (c) such Defaulting Lender's Revolving Loan Commitment and outstanding Revolving Loans and such Defaulting Lender's Pro Rata Share of the Letter of Credit Usage shall be excluded for purposes of calculating the Revolving Loan Commitment fee payable to Lenders in respect of any day during any Default Period with respect to such Defaulting Lender, and such Defaulting Lender shall not be entitled to receive any Revolving Loan Commitment fee pursuant to Section 2.10 with respect to such Defaulting Lender's Revolving Loan Commitment in respect of any Default Period with respect to such Defaulting Lender; and (d) the Total Utilization of Revolving Loan Commitments as at any date of determination shall be calculated as if such Defaulting Lender had funded all Defaulted Loans of such Defaulting Lender. No Revolving Loan Commitment of any Lender shall be increased or otherwise affected, and, except as otherwise expressly provided in this Section 2.21, performance by Borrower Representative of its obligations hereunder and the other Credit Documents shall not be excused or otherwise modified as a result of any Funding Default or the operation of this Section 2.21. The rights and remedies against a Defaulting Lender under this Section 2.21 are in addition to other rights and remedies which Borrower Representative may have against such Defaulting Lender with respect to any Funding Default and which Administrative Agent or any Lender may have against such Defaulting Lender with respect to any Funding Default.

2.22 Removal or Replacement of a Lender. Anything contained herein to the contrary notwithstanding, in the event that: (a) (i) any Lender (an "**Increased-Cost Lender**") shall give notice to Borrower Representative that such Lender is an Affected Lender or that such Lender is entitled to receive payments under Section 2.17, 2.18 or 2.19, (ii) the circumstances

which have caused such Lender to be an Affected Lender or which entitle such Lender to receive such payments shall remain in effect, and (iii) such Lender shall fail to withdraw such notice within five (5) Business Days after Borrower Representative's request for such withdrawal; or (b) (i) any Lender shall become a Defaulting Lender, (ii) the Default Period for such Defaulting Lender shall remain in effect, and (iii) such Defaulting Lender shall fail to cure the default as a result of which it has become a Defaulting Lender within five (5) Business Days after Borrower Representative's request that it cure such default; or (c) in connection with any proposed amendment, modification, termination, waiver or consent with respect to any of the provisions hereof as contemplated by Section 10.5(b), the consent of Requisite Lenders shall have been obtained but the consent of one or more of such other Lenders (each a "**Non-Consenting Lender**") whose consent is required shall not have been obtained; then, with respect to each such Increased-Cost Lender, Defaulting Lender or Non-Consenting Lender (the "**Terminated Lender**"), Borrower Representative may, by giving written notice to Administrative Agent and any Terminated Lender of its election to do so, or Administrative Agent may, elect to cause such Terminated Lender (and such Terminated Lender hereby irrevocably agrees) to assign its outstanding Loans and its Revolving Loan Commitments, if any, in full to one or more Eligible Assignees satisfactory to Administrative Agent (each a "**Replacement Lender**") in accordance with the provisions of Section 10.6 and Terminated Lender shall pay any fees payable thereunder in connection with such assignment; provided, (1) on the date of such assignment, the Replacement Lender shall pay to Terminated Lender an amount equal to the sum of (A) an amount equal to the principal of, and all accrued interest on, all outstanding Loans of the Terminated Lender, (B) an amount equal to all unreimbursed drawings that have been funded by such Terminated Lender, together with all then unpaid interest with respect thereto at such time and (C) an amount equal to all accrued, but theretofore unpaid fees owing to such Terminated Lender pursuant to Section 2.10; (2) on the date of such assignment, Borrower Representative shall pay any amounts payable to such Terminated Lender pursuant to Section 2.17(c), 2.18 or 2.19, or otherwise as if it were a prepayment; and (3) in the event such Terminated Lender is a Non-Consenting Lender, each Replacement Lender shall consent, at the time of such assignment, to each matter in respect of which such Terminated Lender was a Non-Consenting Lender; provided, Borrower Representative may not make such election with respect to any Terminated Lender that is also an Issuing Bank unless, prior to the effectiveness of such election, Borrower Representative shall have caused each outstanding Letter of Credit issued thereby to be cancelled. Upon the prepayment of all amounts owing to any Terminated Lender and the termination of such Terminated Lender's Revolving Loan Commitments, if any, such Terminated Lender shall no longer constitute a "Lender" for purposes hereof; provided, any rights of such Terminated Lender to indemnification hereunder shall survive as to such Terminated Lender.

SECTION 3. CONDITIONS PRECEDENT

3.1 Closing Date. The obligation of any Lender to make a Credit Extension Closing Date is subject to the satisfaction, or waiver in accordance with Section 10.5, of the following conditions on or before the Closing Date:

(a) Credit Documents. Administrative Agent shall have received (i) sufficient copies of this Agreement, executed and delivered by each applicable Credit Party, the Agents and Lenders having Revolving Loan Commitments hereunder and, (ii) Notes, if any, requested by any Lender pursuant to Section 2.6(c) in connection with its Revolving Loan Commitments, executed and delivered by the Borrowers.

(b) Organizational Documents; Incumbency. Administrative Agent shall have received (i) copies of each Organizational Document for each Credit Party, certified as of a recent date prior to the Closing Date by the appropriate governmental official or, as applicable, by an officer of such Credit Party; (ii) signature and incumbency certificates of the officers of each Credit Party executing the Credit Documents to which it is a party; (iii) resolutions of the Board of Directors or similar governing body of each Credit Party approving and authorizing the execution, delivery and performance of this Agreement and the other Credit Documents to which it is a party, certified as of the Closing Date by its secretary or an assistant secretary as being in full force and effect without modification or amendment; (iv) a good standing certificate from the applicable Governmental Authority of each Credit Party's jurisdiction of incorporation, organization or formation and in each jurisdiction in which it is qualified as a foreign corporation or other entity to do business, each dated a recent date prior to the Closing Date; and (v) such other documents as Administrative Agent may reasonably request.

(c) Governmental Authorizations and Consents.

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

(ii) Each of the Lenders shall have received, at least five (5) Business Days in advance of the Closing Date, all documentation and other information required by Governmental Authorities under applicable "know-your-customer" and anti-money laundering rules and regulations, including, without limitation, as required by the Uniting and Strengthening America by Providing Appropriate

Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001.

(d) ABL Priority Collateral. The Administrative Agent shall be satisfied with the valid perfected First Priority security interest in favor of Collateral Agent, for the benefit of Secured Parties, in the ABL Priority Collateral.

(e) Term Priority Collateral. The Administrative Agent shall be satisfied with the valid perfected Second Priority security interest in favor of Collateral Agent, for the benefit of Secured Parties, in the Term Priority Collateral of each Credit Party.

(f) Opinion of Counsel to Credit Parties. Lenders and their respective counsel shall have received originally executed copies of the favorable written opinion of Gibson, Dunn & Crutcher LLP, counsel for Credit Parties, in form and substance satisfactory to the Administrative Agent, dated as of the Closing Date (and each Credit Party hereby instructs such counsel to deliver such opinion to Agents and Lenders).

(g) Fees. Borrower Representative shall have paid to Arranger and Agents the fees and other amounts payable on the Closing Date referred to in Section 2.10(d).

(h) Solvency Certificate. On the Closing Date, Administrative Agent shall have received a Solvency Certificate dated as of the Closing Date and addressed to Administrative Agent and Lenders, in form, scope and substance satisfactory to Administrative Agent, with appropriate attachments and demonstrating that after giving effect to the transactions contemplated by the Credit Documents and the Term Loan Documents, each Borrower is and will be, and Holdings and its Subsidiaries (on a consolidated basis) are and will be Solvent.

(i) No Litigation. There shall not exist any action, suit, investigation, litigation or proceeding or other legal or regulatory developments, pending or threatened in any court or before any arbitrator or Governmental Authority that, in the opinion of Administrative Agent, singly or in the aggregate, could reasonably be expected to restrain, prevent or impose materially burdensome conditions on the transactions contemplated by this Agreement or the other Credit Documents.

(j) No Material Adverse Effect. Since December 31, 2006, there shall not have occurred a material adverse effect upon the business, operations, properties, assets or condition (financial or otherwise) of Company and its Subsidiaries, taken as a whole.

(k) Existing Credit Agreement Prepayments. The Administrative Agent shall be satisfied that, concurrently with the borrowing of the Revolving Loans on the Closing Date, the Existing Credit Agreement will be terminated, all Liens securing obligations under the

Existing Agreement will be released, and all obligations under the Existing Credit Agreement repaid in full.

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

(m) Term Loan Facility. Borrower Representative shall have entered into the Term Loan Facility and the Term Loan Documents shall be satisfactory to the Administrative Agent.

(n) Inventory Appraisal. The Inventory Appraisal and a written report regarding the results of a commercial finance examination of the Borrowers shall be satisfactory to the Collateral Agent.

(o) Closing Date Borrowing Base Certificate. The Administrative Agent and the Collateral Agent shall have received a Borrowing Base Certificate dated the Closing Date, relating to the month most recently ended at least 5 days prior to the Closing Date and executed by the chief financial officer of the Borrower Representative and demonstrating Excess Availability of at least $15,000,000 after giving effect to the Revolving Loans to be made on the Closing Date.

(p) Blocked Account Agreement. Enter into a Blocked Account Agreement with respect to each Deposit Account of any Credit Party.

(q) Closing Date Certificate. The Administrative Agent shall have received a certificate signed by the chief financial officer of the Borrower Representative dated the Closing Date, certifying (A) that the conditions specified in Section 3.1(a) have been satisfied, (B) that the representations and warranties contained in Section 4 are true and correct and (C) that no event shall have occurred and be continuing or would result from the consummation of the Credit Extensions on the Closing Date that would constitute an Event of Default or a Default.

Each Lender, by delivering its signature page to this Agreement on the Closing Date, shall be deemed to have acknowledged receipt of, and consented to and approved, each Credit Document and each other document required to be approved on the Closing Date.

3.2 Conditions to Each Credit Extension.

(a) Conditions Precedent. The obligation of each Lender to make any Loan, or Issuing Bank to issue any Letter of Credit, on any Credit Date, including the Closing Date, are subject to the satisfaction, or waiver in accordance with Section 10.5, of the following conditions precedent:

(i) Administrative Agent shall have received a fully executed and delivered Funding Notice or Issuance Notice, as the case may be;

(ii) after making the Credit Extensions requested on such Credit Date, the Total Utilization of Revolving Loan Commitments shall not exceed the Revolving Loan Commitments then in effect;

(iii) as of such Credit Date, the representations and warranties contained herein and in the other Credit Documents shall be true and correct in all material respects on and as of that Credit Date to the same extent as though made on and as of that date, except to the extent such representations and warranties specifically relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects on and as of such earlier date;

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

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

(b) Notices. Any Notice shall be executed by an Authorized Officer in a writing delivered to Administrative Agent. In lieu of delivering a Notice, Borrower Representative may give Administrative Agent telephonic notice by the required time of any proposed borrowing, conversion/continuation or issuance of a Letter of Credit, as the case may be; provided each such notice shall be promptly confirmed in writing by delivery of the applicable Notice to Administrative Agent on or before the applicable date of borrowing, continuation/conversion or issuance. Neither Administrative Agent nor any Lender shall incur

any liability to Borrower Representative in acting upon any telephonic notice referred to above that Administrative Agent believes in good faith to have been given by a duly authorized officer or other person authorized on behalf of Borrower Representative or for otherwise acting in good faith.

SECTION 4. REPRESENTATIONS AND WARRANTIES

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

4.1 Organization; Requisite Power and Authority; Qualification. Each of Holdings and its Subsidiaries (a) is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization as identified in Schedule 4.1 (subject to such changes as are permitted by Section 6.9), (b) has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as proposed to be conducted, to enter into the Credit Documents to which it is a party and to carry out the transactions contemplated thereby, and (c) is qualified to do business and in good standing in every jurisdiction where its assets are located and wherever necessary to carry out its business and operations, except in jurisdictions where the failure to be so qualified or in good standing has not had, and could not be reasonably expected to have, a Material Adverse Effect.

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

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

4.4 No Conflict. The execution, delivery and performance by Credit Parties of the Credit Documents to which they are parties and the consummation of the transactions contemplated by the Credit Documents do not and will not (a) violate any provision of any law or any governmental rule or regulation applicable to Holdings or any of its Subsidiaries, any of

the Organizational Documents of Holdings or any of its Subsidiaries; (b) violate any order, judgment or decree of any court or other agency of government binding on Holdings or any of its Subsidiaries except to the extent such violation could not be reasonably expected to have a Material Adverse Effect; (c) conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default under any Contractual Obligation of Holdings or any of its Subsidiaries except to the extent such violation could not reasonably be expected to have a Material Adverse Effect; (d) result in or require the creation or imposition of any Lien upon any of the properties or assets of Holdings or any of its Subsidiaries (other than any Liens created under any of the Credit Documents in favor of Collateral Agent, on behalf of Secured Parties); or (e) require any approval of stockholders, members or partners or any approval or consent of any Person under any Contractual Obligation of Holdings or any of its Subsidiaries, except for such approvals or consents which will be obtained on or before the Closing Date and disclosed in writing to Lenders.

4.5 Governmental Consents. The execution, delivery and performance by Credit Parties of the Credit Documents to which they are parties and the consummation of the transactions contemplated by the Credit Documents do not and will not require any registration with, consent or approval of, or notice to, or other action to, with or by, any Governmental Authority except to the extent obtained on or before the Closing Date, and except for filings and recordings with respect to the Collateral made or to be made, or otherwise delivered to Collateral Agent for filing and/or recordation, as of the Closing Date.

4.6 Binding Obligation. Each Credit Document has been duly executed and delivered by each Credit Party that is a party thereto and is the legally valid and binding obligation of such Credit Party, enforceable against such Credit Party in accordance with its respective terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability.

4.7 Financial Condition. Holdings has heretofore delivered to Administrative Agent (a) the audited consolidated balance sheet of Company and its Subsidiaries for the Fiscal Years ended December 31, 2004, December 31, 2005 and December 31, 2006, and the related audited consolidated statements of income, stockholders' equity and cash flows of each of such companies for each such Fiscal Year then ended, together with all related notes and schedules thereto, and (b) the unaudited consolidated balance sheet of Company and its Subsidiaries for the three-month period ended March 30, 2007 and the related unaudited consolidated statements of income, stockholders' equity and cash flows of the Company and its Subsidiaries for such three-month period then ended, together with all related notes and schedules thereto. All such statements of Company and its Subsidiaries were prepared in conformity with GAAP and fairly present, in all material respects, the financial position of the entities described in such financial statements as at the respective dates thereof and the results of operations and cash flows of the entities described therein for each of the periods then ended, subject, in the case of such unaudited financial statements, to changes resulting from audit and normal year-end adjustments and the absence of footnotes. As of the Closing Date, neither Company nor any of its

Subsidiaries has any contingent liability or liability for taxes, long-term lease or unusual forward or long-term commitment that is not reflected in the foregoing financial statements or the notes thereto and which in any such case is material in relation to the business, operations, properties, assets, condition (financial or otherwise) or prospects of Company and its Subsidiaries taken as a whole.

4.8 Projections. On and as of the Closing Date, the projections of Holdings and its Subsidiaries for (x) the period Fiscal Year 2007 through and including Fiscal Year 2013 and (y) the Fiscal Quarters beginning with the second Fiscal Quarter of 2007 through and including the fourth Fiscal Quarter of 2008 (collectively, the "**Projections**") previously delivered to Administrative Agent and the Lenders are based on good faith estimates and assumptions made by the management of Holdings, it being recognized, however, that projections as to future events are not to be viewed as facts and that actual results during the period or periods covered by the Projections may differ from the projected results and that the differences may be material.

4.9 No Material Adverse Change. Since December 31, 2006, except as set forth in Schedule 4.9, no event, circumstance or change has occurred that has caused or evidences, or could reasonably be expected to cause, either in any case or in the aggregate, a Material Adverse Effect.

4.10 No Restricted Payments. Neither Holdings nor any of its Subsidiaries has directly or indirectly declared, ordered, paid or made, or set apart any sum or property for, any Restricted Payment or agreed to do so except as permitted pursuant to Section 6.5.

4.11 Litigation; Adverse Facts. Except as set forth in Schedule 4.11 hereto, there are no Adverse Proceedings, individually or in the aggregate, that could reasonably be expected to have a Material Adverse Effect. Neither Holdings nor any of its Subsidiaries (a) is in violation of any applicable laws (including Environmental Laws) that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect, or (b) is subject to or in default with respect to any final judgments, writs, injunctions, decrees, rules or regulations of any court or any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

4.12 Payment of Taxes. Except as otherwise permitted under Section 5.3, all tax returns and reports of Holdings and its Subsidiaries required to be filed by any of them have been timely filed, and all taxes shown on such tax returns to be due and payable and all assessments, fees and other governmental charges upon Holdings and its Subsidiaries and upon their respective properties, assets, income, businesses and franchises which are due and payable have been paid when due and payable. Neither Holdings nor any of its Subsidiaries knows of any proposed tax assessment against Holdings or any of its Subsidiaries other than those which are being actively contested by Holdings or such Subsidiary in good faith and by appropriate

proceedings and for which reserves or other appropriate provisions, if any, as shall be required in conformity with GAAP shall have been made or provided therefor.

4.13 Properties.

(a) Title. Each of Holdings and its Subsidiaries has (i) good, sufficient and legal title to (in the case of fee interests in real property), (ii) valid leasehold interests in (in the case of leasehold interests in real or personal property), and (iii) good title to (in the case of all other personal property), all of their respective properties and assets reflected in the most recent financial statements delivered to the Administrative Agent, in each case except for assets disposed of (x) since the date of such financial statements and prior to the Closing Date in the ordinary course of business or (y) as otherwise permitted under Section 6.9 and except for such defects that neither individually nor in the aggregate could reasonably be expected to have a Material Adverse Effect. Except as permitted by this Agreement, all such properties and assets are free and clear of Liens.

(b) Real Estate. As of the Closing Date, Schedule 4.13 contains a true, accurate and complete list of (i) all Real Estate Assets, and (ii) all leases, subleases or assignments of leases (together with all amendments, modifications, supplements, renewals or extensions of any thereof), if any, affecting each Real Estate Asset of any Credit Party, regardless of whether such Credit Party is the landlord or tenant (whether directly or as an assignee or successor in interest) under such lease, sublease or assignment. Each agreement listed in clause (ii) of the immediately preceding sentence is in full force and effect and Holdings does not have knowledge of any default that has occurred and is continuing thereunder, and each such agreement constitutes the legally valid and binding obligation of each applicable Credit Party, enforceable against such Credit Party in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by equitable principles.

(c) Intellectual Property. Company and its Subsidiaries own or have the valid right to use all material Intellectual Property, and all Intellectual Property is free and clear of any and all Liens other than Liens securing the Obligations and Liens permitted pursuant to Section 6.2(i). Any registrations in respect of the Intellectual Property are in full force and effect and are valid and enforceable. The conduct of the business of Company and its Subsidiaries as currently conducted, and as currently contemplated to be conducted, including, but not limited to, all products, processes or services, made, offered or sold by Company and its Subsidiaries, does not and will not infringe upon, violate, misappropriate or dilute any intellectual property of any third party which infringement, violation, misappropriation or dilution could reasonably be expected to have a Material Adverse Effect. To the knowledge of Holdings, Company or any of its Subsidiaries, no third party is infringing upon or misappropriating, violating or otherwise diluting any Intellectual Property where such infringement, misappropriation, violation or dilution could reasonably be expected to have a Material Adverse Effect. Neither Holdings, Company nor any of its Subsidiaries is enjoined from using any material Intellectual Property, and except as could reasonably be expected to have a Material Adverse Effect, there is no

pending or, to the knowledge of Holdings, Company or any of its Subsidiaries, threatened claim or litigation contesting (i) any right of Company or any of its Subsidiaries to own or use any Intellectual Property, or (ii) the validity or enforceability of any Intellectual Property.

4.14 Environmental Matters. Except as set forth in Schedule 4.14 hereto: (i) neither Holdings nor any of its Subsidiaries nor any of their respective Facilities or operations are subject to any outstanding written order, consent decree or settlement agreement with any Person relating to any Environmental Law, any Environmental Claim, or any Hazardous Materials Activity which individually or in the aggregate would reasonably be expected to have a Material Adverse Effect; (ii) as of the Closing Date, or except as otherwise reported to the Administrative Agent after the Closing Date, neither Holdings nor any of its Subsidiaries has received within the last ten (10) years any letter or request for information under Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9604), or any comparable state law; (iii) there are and, to each of Holdings' and its Subsidiaries' knowledge, have been, no conditions, occurrences, or Hazardous Materials Activities which would reasonably be expected to form the basis of an Environmental Claim against Holdings or any of its Subsidiaries, which individually or in the aggregate would reasonably be expected to have a Material Adverse Effect; and (iv) neither Holdings nor any of its Subsidiaries nor, to any Credit Party's knowledge, any predecessor of Holdings or any of its Subsidiaries has filed any notice under any Environmental Law indicating past or present treatment of Hazardous Materials at any Facility, and none of Holdings' or any of its Subsidiaries' operations involves the generation, transportation, treatment, storage or disposal of hazardous waste, as defined under 40 C.F.R. Parts 260-270 or any state equivalent, which individually or in the aggregate would reasonably be expected to have a Material Adverse Effect. Notwithstanding anything to the contrary in this Section 4.14, compliance with all current or reasonably foreseeable future requirements pursuant to or under Environmental Laws would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect and no event or condition has occurred or is occurring with respect to Holdings or any of its Subsidiaries relating to any Environmental Law, any Release of Hazardous Materials, or any Hazardous Materials Activity, including, without limitation, any matter included in Schedule 4.14, which individually or in the aggregate has had, or would reasonably be expected to have, a Material Adverse Effect.

4.15 No Defaults. Neither Holdings nor any of its Subsidiaries is in default in the performance, observance or fulfillment of any of the obligations or covenants contained in (i) any of its Contractual Obligations (other than the Credit Documents and the Term Loan Documents), and no condition exists which, with the giving of notice or the lapse of time or both, could constitute such a default, except where the consequences, direct or indirect, of such default or defaults, if any, could not reasonably be expected to have a Material Adverse Effect and (ii) any Credit Document and any Term Loan Document.

4.16 Governmental Regulation. Neither Holdings nor any of its Subsidiaries is subject to regulation under the Federal Power Act or the Investment Company Act of 1940 or under any other federal or state statute or regulation which may limit its ability to incur Indebtedness or which may otherwise render all or any portion of the Obligations unenforceable.

Neither Holdings nor any of its Subsidiaries is a "registered investment company" or a company "controlled" by a "registered investment company" or a "principal underwriter" of a "registered investment company" as such terms are defined in the Investment Company Act of 1940.

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

4.18 Employee Matters. Neither Holdings nor any of its Subsidiaries is engaged in any unfair labor practice that could reasonably be expected to have a Material Adverse Effect. Except as set forth in Schedule 4.18, there is (a) no unfair labor practice complaint pending against Holdings or any of its Subsidiaries, or to the best knowledge of Holdings and Company, threatened against any of them before the National Labor Relations Board and no grievance or arbitration proceeding arising out of or under any collective bargaining agreement that is so pending against Holdings or any of its Subsidiaries or to the best knowledge of Holdings and Company, threatened against any of them, and the hours worked by and payments made to employees of Holdings or any of its Subsidiaries have not violated the Fair Labor Standards Act or any other law dealing with such matters, (b) no strike or work stoppage in existence or threatened involving Holdings or any of its Subsidiaries, and (c) to the best knowledge of Holdings and Company, no union representation question existing with respect to the employees of Holdings or any of its Subsidiaries and, to the best knowledge of Holdings and Company, no union organization activity that is taking place; which in each case in clause (a), (b) or (c) above (including, without limitation, any matter included in Schedule 4.18), could either individually or in the aggregate reasonably be expected to have a Material Adverse Effect.

4.19 Employee Benefit Plans. Holdings, each of its Subsidiaries and each of their respective ERISA Affiliates are in material compliance with all applicable

provisions and requirements of ERISA and the Internal Revenue Code and the regulations and published interpretations thereunder with respect to each Employee Benefit Plan, and have performed all their obligations under each Employee Benefit Plan in all material respects. Each Employee Benefit Plan which is intended to qualify under Section 401(a) of the Internal Revenue Code has received a favorable determination letter from the Internal Revenue Service indicating that such Employee Benefit Plan is so qualified and nothing has occurred subsequent to the issuance of such determination letter which reasonably would be expected to cause such Employee Benefit Plan to lose its qualified status. No liability to the PBGC (other than required premium payments), the Internal Revenue Service, any Employee Benefit Plan or any trust established under Title IV of ERISA has been or reasonably is expected to be incurred by Holdings, any of its Subsidiaries or any of their ERISA Affiliates. Except as set forth in Schedule 4.19 (and

except for changes in matters identified in Schedule 4.19 that are not, individually or in the aggregate, material), no ERISA Event has occurred or is reasonably expected to occur. Except as set forth in Schedule 4.19, and except to the extent required under Section 4980B of the Internal Revenue Code or similar state laws, no Employee Benefit Plan provides health or welfare benefits (through the purchase of insurance or otherwise) for any retired or former employee of Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates. Except as set forth in Schedule 4.19 (and except for changes in matters identified in Schedule 4.19 that are not, individually or in the aggregate, material), the present value of the aggregate benefit liabilities under each Pension Plan sponsored, maintained or contributed to by Holdings, any of its Subsidiaries or any of their ERISA Affiliates, (determined as of the end of the most recent plan year on the basis of the actuarial assumptions specified for funding purposes in the most recent actuarial valuation for such Pension Plan), did not exceed the aggregate current value of the assets of such Pension Plan. Neither Holdings, its Subsidiaries nor their respective ERISA Affiliates maintains, contributes to or is required to contribute to any Multiemployer Plan.

4.20 Certain Fees. Except as otherwise disclosed in writing to Administrative Agent and Arranger, no broker's or finder's fee or commission will be payable with respect hereto or any of the transactions contemplated hereby, and Company hereby indemnifies Lenders, Agents and Arranger against, and agrees that it will hold Lenders, Agents and Arranger harmless from, any claim, demand or liability for any such broker's or finder's fees alleged to have been incurred in connection herewith or therewith and any expenses (including reasonable fees, expenses and disbursements of counsel) arising in connection with any such claim, demand or liability.

4.21 Solvency. Each Borrower is, and Holdings and its Subsidiaries (on a consolidated basis), are, and, upon the incurrence of any Obligation by any Credit Party on any date on which this representation and warranty is made, will be, Solvent.

4.22 Collateral.

(a) Collateral Documents. The security interests created in favor of Collateral Agent under the Collateral Documents constitute, as security for the obligations purported to be secured thereby, a legal, valid and enforceable security interest in all of the Collateral referred to therein in favor of Collateral Agent for the benefit of the Lenders. The security interests in and Liens upon the Collateral described in the Collateral Documents are valid and perfected First Priority or Second Priority Liens (in accordance with the priorities set forth in the Intercreditor Agreement) to the extent such security interests and Liens can be perfected by such filings and recordations. No consents, filings or recordings are required in order to perfect (or maintain the perfection or priority of) the security interests purported to be created by any of the Collateral Documents, other than (i) such as have been obtained and which remain in full force and effect, (ii) the periodic filing of UCC continuation statements in respect of UCC financing statements filed by or on behalf of Collateral Agent, and (iii) with respect to such items of Collateral as to

which this Agreement or the Collateral Documents do not require any consent, filing or recordation.

(b) Absence of Third Party Filings. Except such as may have been filed in favor of Collateral Agent as contemplated by Section 4.23(a) above and except as set forth on Schedule 4.22 annexed hereto or, after the Closing Date, as may have been filed with respect to a Lien permitted by Section 6.2, (i) no effective UCC financing statement, fixture filing or other instrument similar in effect covering all or any part of the Collateral is on file in any filing or recording office and (ii) no effective filing with respect to a Lien covering all or any part of the Collateral is on file with the United States Patent and Trademark Office or United States Copyright Office or any other Governmental Authority.

4.23 Disclosure. No representation or warranty of Holdings and its Subsidiaries contained in any Credit Document or in any other documents, certificates or written statements furnished to Lenders by or on behalf of Holdings or any of its Subsidiaries for use in connection with the transactions contemplated hereby or thereby contains any untrue statement of a material fact or omits (when taken as a whole) to state a material fact (known to Holdings or Company, in the case of any document not furnished by either of them) necessary in order to make the statements contained herein or therein not misleading in light of the circumstances in which the same were made. Any projections and pro forma financial information contained in such materials are based upon good faith estimates and assumptions believed by Holdings or Company to be reasonable at the time made, it being recognized by Lenders that such projections as to future events are not to be viewed as facts and that actual results during the period or periods covered by any such projections may differ from the projected results. There is no fact known to Holdings or Company (other than matters of a general economic nature) that, individually or in the aggregate, has had, or could reasonably be expected to result in, a Material Adverse Effect and that has not been disclosed herein or in such other documents, certificates and statements furnished to Lenders for use in connection with the transactions contemplated hereby.

4.24 Deposit Accounts

Annexed hereto as Schedule 4.24 is a list of all Deposit Accounts maintained by the Credit Parties as of the Closing Date, which Schedule includes, with respect to each deposit account (i) the name and address of the depository; (ii) the account number(s) maintained with such depository; and (iii) a contact person at such depository.

SECTION 5. AFFIRMATIVE COVENANTS

Each Credit Party covenants and agrees that so long as any Commitment is in effect and until payment in full of all Obligations and cancellation or expiration of all Letters of Credit,

each Credit Party shall perform, and shall cause each of its Subsidiaries to perform, all covenants in this Section 5.

5.1 Financial Statements and Other Reports. Holdings will deliver to Administrative Agent and Collateral Agent for each Lender:

(a) [RESERVED];

(b) Quarterly Financial Statements. Within two (2) Business Days after the date on which Holdings files or is required to file its Form 10-Q under the Exchange Act (but without giving effect to any extension pursuant to Rule 12b-25 under the Exchange Act (or any successor rule) or otherwise) (or, if Holdings is not

required to file a Form 10-Q under the Exchange Act, within fifty (50) days after the end of each of the first three Fiscal Quarters of each Fiscal Year (commencing with the Fiscal Quarter ending June 30, 2007)), (i) the consolidated and consolidating balance sheets of Holdings and its Subsidiaries as at the end of such Fiscal Quarter and the related consolidated (and with respect to statements of income, consolidating) statements of income and cash flows of Holdings and its Subsidiaries for such Fiscal Quarter and for the period from the beginning of the then current Fiscal Year to the end of such Fiscal Quarter, setting forth in each case in comparative form the corresponding figures for the corresponding periods of the previous Fiscal Year and the corresponding figures from the Financial Plan for the current Fiscal Year, all prepared in accordance with GAAP and in reasonable detail and certified by the chief financial officer, senior vice president-finance, treasurer or controller of Company or Holdings that they fairly present, in all material respects, the consolidated financial condition of Holdings and its Subsidiaries as at the dates indicated and the results of their operations and their cash flows for the periods indicated, subject to changes resulting from audit and normal year-end adjustments and the absence of footnotes, and (ii) a narrative report describing the financial condition and results of operations of Holdings and its Subsidiaries for such Fiscal Quarter in form and substance reasonably satisfactory to Administrative Agent;

(c) Annual Financial Statements. Within two (2) Business Days after the date on which the Holdings files or is required to file its Form 10-K under the Exchange Act (but without giving effect to any extension pursuant to Rule 12b-25 under the Exchange Act (or any successor rule) or otherwise) (or, if Holdings is not required to file a Form 10-K under the Exchange Act, within one hundred (100) days after the end of each Fiscal Year (commencing with the Fiscal Year ending December 31, 2007)), (i) the consolidated and consolidating balance sheets of Holdings and its Subsidiaries as at the end of such Fiscal Year and the related consolidated (and with respect to statements of income, consolidating) statements of income, stockholder's equity and cash flows of Holdings and its Subsidiaries for such Fiscal Year, setting forth in each case in comparative form the corresponding figures for the previous Fiscal Year and the corresponding figures from the Financial Plan for the Fiscal Year covered by such financial statements, all prepared in accordance with GAAP and in reasonable detail and certified by the chief financial officer, senior vice president-finance, treasurer or controller of Company or Holdings that they fairly present, in all material respects, the consolidated financial condition of

Holdings and its Subsidiaries as at the dates indicated and the results of their operations and their cash flows for the periods indicated, and (ii) a narrative report describing the financial condition and results of operations of Holdings and its Subsidiaries in form and substance reasonably satisfactory to Administrative Agent; (iii) with respect to such consolidated financial statements a report thereon of independent certified public accountants of recognized national standing selected by Holdings, and reasonably satisfactory to Administrative Agent (which report shall be unqualified as to going concern and scope of audit, and shall state that such consolidated financial statements fairly present, in all material respects, the consolidated financial position of Holdings and its Subsidiaries as at the dates indicated and the results of their operations and their cash flows for the periods indicated in conformity with GAAP applied on a basis consistent with prior years (except as otherwise disclosed in such financial statements) and that the examination by such accountants in connection with such consolidated financial statements has been made in accordance with generally accepted auditing standards) together with a written statement by such independent certified public accountants stating (1) that their audit examination has included a review of the terms of the Credit Documents, and (2) whether, in connection therewith, any condition or event that constitutes a Default or an Event of Default under Section 6.8 or otherwise with respect to accounting matters has come to their attention and, if such a condition or event has come to their attention, specifying the nature and period of existence thereof;

(d) Compliance Certificate. Together with each delivery of financial statements of Holdings and its Subsidiaries pursuant to Sections 5.1(b) and 5.1(c), a duly executed and completed Compliance Certificate;

(e) Statements of Reconciliation after Change in Accounting Principles. If, as a result of any change in accounting principles and policies from those used in the preparation of the financial statements referred to in Section 4.7, the consolidated financial statements of Holdings and its Subsidiaries delivered pursuant to Section 5.1(b) or 5.1(c) will differ in any material respect from the consolidated financial statements that would have been delivered pursuant to such subdivisions had no such change in accounting principles and policies been made, then, together with the first delivery of such financial statements after such change, one or more statements of reconciliation for all such prior financial statements in form and substance reasonably satisfactory to Administrative Agent;

(f) Notice of Default, etc. Promptly upon, and in any event within five (5) days after, any officer of Holdings or any of its Subsidiaries obtaining knowledge (i) of any condition or event that constitutes a Default or an Event of Default or that notice has been given to Holdings or any of its Subsidiaries with respect thereto; (ii) that any Person has given any notice to Holdings or any of its Subsidiaries or taken any other action with respect to any claimed default or event or condition of the type referred to in Section 8.1(b); (iii) of the occurrence of any event or change that has caused or evidences or would reasonably be expected to have, either in any case or in the aggregate, a Material Adverse Effect; or (iv) the occurrence of a Liquidity Event, a certificate of its Authorized Officers specifying the nature and period of existence of such condition, event or change, or specifying the notice given and action taken by any such Person and the nature of such claimed Event of Default, Default, default, event or

condition, and what action Holdings or the applicable Subsidiary has taken, is taking and proposes to take with respect thereto;

(g) Notice of Litigation. Promptly upon, and in any event within five (5) days after, any officer of Holdings or any of its Subsidiaries obtaining knowledge of (i) the institution of, or non-frivolous threat of, any Adverse Proceeding not previously disclosed in writing by Company to Lenders, or (ii) any material development in any Adverse Proceeding that, in the case of either (i) or (ii) if adversely determined, could be reasonably expected to have a Material Adverse Effect, or seeks to enjoin or otherwise prevent the consummation of, or to recover any damages or obtain relief as a result of, the transactions contemplated hereby, written notice thereof together with such other information as may be reasonably available to Holdings or any of its Subsidiaries to enable Lenders and their counsel to evaluate such matters;

(h) ERISA. (i) Promptly upon becoming aware of the occurrence of or forthcoming occurrence of any ERISA Event, a written notice specifying the nature thereof, what action Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates has taken, is taking or proposes to take with respect thereto and, when known, any action taken or threatened by the Internal Revenue Service, the Department of Labor or the PBGC with respect thereto; and (ii) with reasonable promptness, copies of (1) each Schedule B (Actuarial Information) to the annual report (Form 5500 Series) filed by Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates with the Internal Revenue Service with respect to each Pension Plan and (2) copies of such other documents or governmental reports or filings relating to any Employee Benefit Plan as Administrative Agent shall reasonably request;

(i) Financial Plan. As soon as practicable and in any event no later than the 90 days after the beginning of each Fiscal Year, a monthly consolidated and consolidating plan and financial forecast for such Fiscal Year (a "**Financial Plan**"), including a forecasted consolidated balance sheet and forecasted consolidated and consolidating statements of income and consolidated statement of cash flows of Holdings and its Subsidiaries for such Fiscal Year, together with pro forma Compliance Certificates for each such Fiscal Year and an explanation of the assumptions on which such forecasts are based;

(j) Insurance Report. As soon as practicable and in any event by the last day of each calendar year, a report in form and substance reasonably satisfactory to Administrative Agent outlining all material insurance coverage maintained as of the date of such report by Holdings and its Subsidiaries and all material insurance coverage planned to be maintained by Holdings and its Subsidiaries in the immediately succeeding calendar year;

(k) Accountants' Reports. Promptly upon receipt thereof (unless restricted by applicable professional standards), copies of all reports submitted to Holdings or Company by independent certified public accountants in connection with each annual, interim or special audit of the financial statements of Holdings and its Subsidiaries made by such accountants, including

any comment letter submitted by such accountants to management in connection with their annual audit;

(l) Fixed Charge Coverage Compliance Certificate. A Fixed Charge Coverage Compliance Certificate relating to the Minimum Fixed Charge Coverage Ratio for the most recently ended four Fiscal Quarter period for which financial statements are required to have been delivered hereunder, (i) within two Business Days after the occurrence of any Liquidity Event (A) for which a Liquidity Event Cure Notice has not been properly delivered as required by Section 8.2 within ten (10) (or, if applicable, fifteen (15)) days after the occurrence of such Liquidity Event, (B) for which a Liquidity Event Cure Notice was properly delivered and a Liquidity Event Cure did not occur in accordance with Section 8.2 or (C) for which no Liquidity Event Cure Notice is available and (ii) on the fifteenth day of each calendar month after such Liquidity Event occurred (but only if such Liquidity Event exists on such date);

(m) Environmental Reports and Audits. As soon as practicable following receipt thereof, copies of all environmental audits and reports, whether prepared by personnel of Company or any of its Subsidiaries or by independent consultants, with respect to environmental matters at any Facility or which relate to any environmental liabilities of Holdings or its Subsidiaries which, in any such case, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect;

(n) Other Information. (A) Promptly upon their becoming available, copies of (i) all financial statements, reports, notices and proxy statements sent or made available generally by Holdings to holders of its Indebtedness or to holders of its public equity securities or by any Subsidiary of Holdings to its security holders other than Holdings or another Subsidiary of Holdings, (ii) all regular and periodic reports and all registration statements and prospectuses, if any, filed by Holdings or any of its Subsidiaries with any securities exchange or with the Securities and Exchange Commission or any governmental or private regulatory authority, (iii) all press releases and other statements made available generally by Holdings or any of its Subsidiaries to the public concerning material developments in the business of Holdings or any of its Subsidiaries, and (B) such other information and data with respect to Holdings or any of its Subsidiaries (including, without limitation, financial statements with respect to Holdings and its Subsidiaries) as from time to time may be reasonably requested by Administrative Agent or any Lender;

(o) Borrowing Base Certificate. (i) No later than the 15th day of each calendar month, a certificate in the form of Exhibit L (a '**Borrowing Base Certificate**") showing the Borrowing Base as of the close of business on the immediately preceding calendar month, each Borrowing Base Certificate to be certified as complete and correct in all material respects on behalf of the Borrowers by the chief financial officer of the Borrower Representative, provided that if an Event of Default has occurred and is continuing, at Administrative Agent's or Collateral Agent's request, such Borrowing Base Certificate shall be furnished more frequently than monthly, at intervals to be determined in Administrative Agent's and Collateral Agent's collective discretion (but in no case more frequently than weekly); and provided further that if a

Liquidity Event has occurred and is continuing or existed within the preceding 30 days, the Borrowing Base shall be computed weekly and Holdings shall deliver the Borrowing Base Certificate to the Administrative Agent and the Collateral Agent no later than three Business Days following the end of each week;

(p) Collateral Reports.

(i) No later than the 15th day of each calendar month, and at such other times as may be requested by the Collateral Agent, as of the period then ended:

(1) a detailed aging of the Accounts of the Borrowers (A) including all invoices aged by due date (with an explanation of the terms offered) and (B) reconciled to the Borrowing Base Certificate delivered as of such date prepared in a manner reasonably acceptable to the Administrative Agent and Collateral Agent, together with a summary specifying the name, address, and balance due for each Account Debtor;

(2) a schedule detailing the Inventory of the Borrowers, in form reasonably satisfactory to the Collateral Agent, (A) by location (showing Inventory in transit, any Inventory located with a third party under any consignment, bailee arrangement, or warehouse agreement), by class (raw material and finished goods), by product type, and by volume on hand, which Inventory shall be valued at the lower of Cost or market and adjusted for Reserves as the Collateral Agent has previously indicated to the Borrower Representative, (B) including a report of any variances or other results of Inventory counts performed by the Borrowers since the last Inventory schedule delivered pursuant to this Section 5.1(p)(i), and (C) reconciled to the Borrowing Base Certificate delivered as of such date;

(3) a worksheet of calculations prepared by the Borrower Representative to determine Eligible Accounts and Eligible Inventory, such worksheets detailing the Accounts and Inventory excluded from Eligible Accounts and Eligible Inventory and the reason for such exclusion;

(4) a reconciliation of the Accounts and Inventory of the Borrowers between the amounts shown in theBorrowers' general ledger and financial statements and the reports delivered pursuant to clauses (1) and (2) above;

(5) a reconciliation of the loan balance per the Borrowers' general ledger to the loan balance under this Agreement; and

(6) as of the month then ended, a schedule and aging of the Borrowers' accounts payable.

(ii) reasonably promptly upon a request by the Administrative Agent or Collateral Agent in their good faith and in the exercise of reasonable (from the perspective of a secured asset-based lender) business judgment:

(1) copies of invoices in connection with the invoices issued by the Borrowers in connection with any Accounts, credit memos, shipping and delivery documents, and other information related thereto; and

(2) copies of purchase orders, invoices, and shipping and delivery documents in connection with any Inventory purchased by any Borrowers.

(q) during such times, if any, as Borrowing Base Certificates are deliverable on a weekly basis pursuant to clause (o) above, as soon as available but in any event within three Business Days after the end of each calendar week and at such other times as may be requested by the Collateral Agent, as of the period then ended, a rollforward of the Borrowers sales journal, cash receipts journal (identifying trade and non-trade cash receipts) and debit memo/credit memo journal.

5.2 Existence. Except as otherwise permitted under Section 6.9, each Credit Party will, and will cause each of its Subsidiaries to, at all times preserve and keep in full force and effect (i) its existence and (ii) all rights and franchises, licenses and permits material to the business of Holdings and its Subsidiaries (on a consolidated basis).

5.3 Payment of Taxes and Claims. Each Credit Party will, and will cause each of its Subsidiaries to, pay all Taxes imposed upon it or any of its properties or

assets or in respect of any of its income, businesses or franchises before any penalty or fine accrues thereon, and all claims (including claims for labor, services, materials and supplies) for sums that have become due and payable which, if unpaid, might become a Lien upon any of its properties or assets; provided, no such Tax or claim need be paid if it is being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, so long as adequate reserve or other appropriate provision, as shall be required in conformity with GAAP shall have been made

therefor. No Credit Party will, nor will it permit any of its Subsidiaries to, file or consent to the filing of any consolidated income tax return with any Person (other than Holdings or any of its Subsidiaries).

5.4 Maintenance of Properties. Each Credit Party will, and will cause each of its Subsidiaries to, maintain or cause to be maintained in good repair, working order and condition, ordinary wear and tear excepted, all material properties owned by Holdings, Company or its Subsidiaries or used or useful in the business of Company and its Subsidiaries (including all Intellectual Property) and from time to time will make or cause to be made all appropriate repairs, renewals and replacements thereof.

5.5 Insurance. Each Credit Party will, and will cause each of its Subsidiaries to, maintain or cause to be maintained, with financially sound and reputable insurers, such public liability insurance, third party property damage insurance, business interruption insurance and casualty insurance with respect to liabilities, losses or damage in respect of the assets, properties and businesses of Company and its Subsidiaries as may customarily be carried or maintained under similar circumstances by Persons of established reputation engaged in similar businesses, in each case in such amounts (giving effect to self-insurance), with such deductibles, covering such risks and otherwise on such terms and conditions as shall be customary for such Persons. Without limiting the generality of the foregoing, each Credit Party will, and will cause each of its Subsidiaries to, maintain or cause to be maintained (a) flood insurance with respect to each Flood Hazard Property that is located in a community that participates in the National Flood Insurance Program, in each case in compliance with any applicable regulations of the Board of Governors of the Federal Reserve System, and (b) replacement value casualty insurance on the Collateral under such policies of insurance, with such insurance companies, in such amounts, with such deductibles, and covering such risks as are at all times carried or maintained under similar circumstances by Persons of established reputation engaged in similar businesses. Each such policy of insurance shall (i) name the Administrative Agent, the Collateral Agent and the Lenders as an additional insured thereunder as its interests may appear and (ii) in the case of each casualty insurance policy, contain a loss payable clause or endorsement, satisfactory in form and substance to Collateral Agent, that names the Collateral Agent, on behalf of Lenders as the loss payee thereunder and provides for at least thirty (30) days' prior written notice to Collateral Agent of any modification or cancellation of such policy.

5.6 Inspections; Appraisals; and Inventories.

(a) Each Credit Party will, and will cause each of its Subsidiaries to, permit any authorized representatives designated by Administrative Agent, Collateral Agent or any Lender (and, in the case of any Lender, accompanied by Administrative Agent or Collateral Agent) to visit and inspect any of the properties of any Credit Party and any of its respective Subsidiaries, to inspect the Collateral, or otherwise to inspect, copy and take extracts from its and their financial and accounting records, and to discuss its and their properties, assets, affairs, finances and accounts with its and their officers and independent public accountants (it being understood that, prior to the occurrence and continuance of an Event of Default, (x) any such

discussions or meetings shall be limited to Administrative Agent and Collateral Agent and (y) in the case of discussions or meetings with the independent public accountants, only if Company has been given the opportunity to participate in such discussions or meetings), all upon reasonable notice and at such reasonable times during normal business hours and as often as may reasonably be requested.

(b) Upon the request of the Administrative Agent or the Collateral Agent not more frequently than once per year after reasonable prior notice, permit the Collateral Agent or professionals (including investment bankers, consultants, accountants, lawyers and appraisers) retained by the Collateral Agent to conduct Inventory Appraisals and commercial finance examinations, including, without limitation, of (i) the Borrowers' practices in the computation of the Borrowing Base, and (ii) the assets included in the Borrowing Base and related financial information such as, but not limited to, sales, gross margins, payables, accruals and reserves. Subject to the following sentences, the Credit Parties shall pay the reasonable fees and expenses of the Collateral Agent or such professionals with respect to such evaluations and appraisals. Without limiting the foregoing, during any period in which Excess Availability has been less than $12.0 million for five (5) consecutive days, the Credit Parties acknowledge that the Administrative Agent and Collateral Agent may undertake, in the aggregate, up to two (2) inventory appraisals and two (2) commercial finance examinations each Fiscal Year, at the Credit Parties' expense. Notwithstanding the foregoing, the Collateral Agent may cause additional Inventory Appraisals and commercial finance examinations to be undertaken as it in its discretion deems necessary or appropriate, at the expense of the Lenders, or if an Event of Default or Liquidity Event shall have occurred and be continuing, at the expense of the Credit Parties.

(c) Upon the request of the Collateral Agent after reasonable prior notice, cause at least one (1) physical inventory at each of the Credit Parties' locations to be undertaken in each twelve (12) month period conducted by such inventory takers as are satisfactory to the Collateral Agent and following such methodology as is consistent with the methodology used in the immediately preceding inventory or as otherwise may be reasonably acceptable to the Collateral Agent. The Borrower Representative, within thirty (30) days following the completion of such inventory, shall provide the Collateral Agent with a reconciliation of the results of such inventory (as well as of any other physical inventory undertaken by a Credit Party).

(d) Prior to the effectiveness of any person becoming an Additional Co-Borrower hereunder, an Inventory Appraisal, a written report regarding the results of a commercial finance examination and/or appraisal in respect of any Real Estate Assets owned by such proposed Additional Co-Borrower, in each case, conducted by an independent appraisal firm reasonably acceptable to the Collateral Agent.

5.7 Lenders Meetings. Holdings and Company will, upon the request of Administrative Agent or Requisite Lenders, participate in a meeting of Administrative Agent and Lenders once during each calendar year to be held at Company's corporate offices (or at such

other location as may be agreed to by Company and Administrative Agent) at such time as may be agreed to by Company and Administrative Agent.

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

5.9 Environmental.

(a) Environmental Disclosure. Each Credit Party will, and will cause each of its Subsidiaries to, deliver to Administrative Agent and Lenders:

(i) as soon as practicable following receipt thereof, copies of all material environmental audits, investigations, analyses and reports of any kind or character, whether prepared by personnel of Holdings or any of its Subsidiaries or by independent consultants, governmental authorities or any other Persons, with respect to significant environmental matters at any Facility or with respect to any Environmental Claims; provided, however, that this Section 5.9(a)(i) shall not apply to communications covered by valid claims of attorney client privilege or to attorney work product generated by legal counsel to Holdings or any of its Subsidiaries;

(ii) promptly upon the occurrence thereof, written notice describing in reasonable detail (1) any Release required to be reported to any federal, state or local governmental or regulatory agency under any applicable Environmental Laws, (2) any remedial action taken by Holdings or any other Person in response to (A) any Hazardous Materials Activities the existence of which has a reasonable possibility of resulting in one or more Environmental Claims having, individually or in the aggregate, a Material Adverse Effect, or (B) any Environmental Claims that, individually or in the aggregate, have a reasonable possibility of resulting in a Material Adverse Effect, and (3) Holdings or any of its Subsidiaries' discovery of any occurrence or condition on any real property adjoining or in the vicinity of any Facility that could cause such Facility or any part thereof to be subject to any material restrictions on the ownership, occupancy, transferability or use thereof under any Environmental Laws;

(iii) as soon as practicable following the sending or receipt thereof by Holdings or any of its Subsidiaries, a copy of any and all written communications to or from any Governmental Authority or any Person bringing an Environmental Claim against Holdings or any of its Subsidiaries with respect to: (1) any Environmental Claims that, individually or in the aggregate, have a reasonable possibility of giving rise to a Material Adverse Effect, (2) any Release required to be reported to any Governmental Authority, and (3) any written request for information from any Governmental Authority stating such Governmental Authority is investigating whether Holdings or any of its Subsidiaries may be potentially responsible for any Hazardous Materials Activity; and

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

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

5.10 Subsidiaries. In the event that any Person becomes a Domestic Subsidiary of Company, Company shall (a) promptly, and in any event within ten (10) days, cause such Domestic Subsidiary to become a Guarantor hereunder and a Grantor under the Pledge and Security Agreement by executing and delivering to Administrative Agent and Collateral Agent a Counterpart Agreement, and (b) take all such actions and execute and deliver, or cause to be executed and delivered, all Perfection Deliverables and such documents, instruments, agreements, opinions and certificates as are similar to those described in Sections 3.1(b) and 3.1(f), and any other actions required by the Pledge and Security Agreement. In the event that any Person becomes a Foreign Subsidiary of Company, and the ownership interests of such Foreign Subsidiary are owned by Company or by any Domestic Subsidiary thereof, Company shall, or shall cause such Domestic Subsidiary to, promptly, and in any event within ten (10) days, deliver all such documents, instruments, agreements, and certificates as are similar to those described in Section 3.1(b), and Company shall take, or shall cause such Domestic Subsidiary to take, all of the actions referred to in clause (i) of the definition of "Perfection Deliverables" necessary to grant and to perfect a First Priority or Second Priority Lien (in accordance with the priorities set forth in the Intercreditor Agreement) in favor of Collateral Agent, for the benefit of Secured Parties, under the Pledge and Security Agreement in 66% of such ownership interests.

With respect to each such Subsidiary, Company shall promptly send to Administrative Agent written notice setting forth with respect to such Person (i) the date on which such Person became a Subsidiary of Company, and (ii) all of the data required to be set forth in Schedules 4.1 and 4.2 with respect to all Subsidiaries of Company; provided, such written notice upon Administrative Agent's approval of the contents therein shall be deemed to supplement Schedule 4.1 and 4.2 for all purposes hereof. Notwithstanding anything to the contrary in this Section 5.10, the requirements of this Section 5.10 shall not apply to any property or Subsidiary created or acquired after the Closing Date, as to which the Collateral Agent has determined in its sole discretion that the collateral value thereof is insufficient to justify the difficulty, time and/or expense of obtaining a perfected security interest therein. The Collateral Agent is hereby authorized by the Lenders to enter into such amendments to the Collateral Documents as the Collateral Agent deems necessary to effectuate the provisions of this Section 5.10.

5.11 Additional Real Estate Assets. In the event that any Credit Party acquires, or any Person that becomes a Credit Party holds, a Real Estate Asset that is (a) a fee interest with a fair market value equal to or greater than $500,000 or (b) a leasehold interest with a value that Administrative Agent in its sole discretion, after consultation with Company, determines is material, and such interest has not otherwise been made subject to a perfected First Priority or Second Priority Lien (in accordance with the priorities set forth in the Intercreditor Agreement) of the Collateral Documents in favor of Collateral Agent, for the benefit of Secured Parties, then such Credit Party shall, promptly, and in any event within ten (10) days of such Credit Party acquiring such Real Estate Asset or such Person becoming a Credit Party, take all such actions and execute and deliver, or cause to be executed and delivered, all Real Estate Asset Deliverables and Perfection Deliverables with respect to each such Real Estate Asset to create in favor of Collateral Agent, for the benefit of Secured Parties, a valid and, subject to any filing and/or recording referred to herein, perfected First Priority or Second Priority Lien (in accordance with the priorities set forth in the Intercreditor Agreement) in such Real Estate Assets, and reports and other information reasonably satisfactory to Administrative Agent regarding environmental matters (including, without limitation, a Phase I Report) with respect to such Real Estate Assets. In addition to the foregoing, Company shall, at the request of Requisite Lenders, deliver, from time to time (but, prior to the occurrence and during the continuance of a Default or Event of Default, not more than once every two calendar years), to Administrative Agent such appraisals of Real Estate Assets with respect to which Collateral Agent has been granted a Lien. Notwithstanding anything to the contrary in this Section 5.11, the requirements of this Section 5.11 shall not apply to any Real Estate Asset acquired after the Closing Date, as to which the Collateral Agent has determined in its sole discretion that the collateral value thereof is insufficient to justify the difficulty, time and/or expense of obtaining a perfected security interest therein. The Collateral Agent is hereby authorized by the Lenders to enter into such amendments to the Collateral Documents as the Collateral Agent deems necessary to effectuate the provisions of this Section 5.11.

5.12 [Reserved].

5.13 Further Assurances. At any time or from time to time upon the request of Administrative Agent or Collateral Agent, each Credit Party will, at its expense, promptly execute, acknowledge and deliver such further documents and do such other acts and things as Administrative Agent or Collateral Agent may reasonably request in order to effect fully the purposes of the Credit Documents. In furtherance and not in limitation of the foregoing, each Credit Party shall take such actions as Administrative

Agent or Collateral Agent may reasonably request from time to time to ensure that the Obligations are guarantied by the Guarantors and are secured by substantially all of the assets of Holdings, and its Subsidiaries and all of the outstanding Capital Stock of Company and its Subsidiaries (in each case subject to limitations contained in the Credit Documents with respect to Foreign Subsidiaries).

5.14 ERISA. Neither Holdings, its Subsidiaries or their respective ERISA Affiliates shall establish, maintain, contribute to, or become required to contribute to any Multiemployer Plan.

5.15 Cash Management

(a) The Credit Parties shall deliver, or cause to be delivered, to Collateral Agent a Blocked Account Agreement duly authorized, executed and delivered by each bank where a Deposit Account for the benefit of any Credit Party is maintained. Each Borrower shall further execute and deliver, and shall cause each Guarantor to execute and deliver, such agreements and documents as Collateral Agent may reasonably require in connection with such Blocked Accounts and such Blocked Account Agreements. Other than Excluded Deposit Accounts, no Credit Party shall establish any Deposit Accounts after the Closing Date, unless such Borrower or Guarantor (as applicable) has complied in full with the provisions of this Section 5.15(a) with respect to such Deposit Accounts. Each Blocked Account Agreement shall require, after notice from the Collateral Agent to a Blocked Account Bank (which the Collateral Agent agrees will only be given after the occurrence of an Account Control Event) (and until the Collateral Agent notifies such Blocked Account Bank to the contrary (which the Collateral Agent agrees will be given promptly after the written request of the Borrower Representative if such Account Control Event has terminated), the ACH or wire transfer no less frequently than daily (and whether or not there are then any outstanding Obligations) to the collection account maintained by the Collateral Agent at JPMorgan Chase Bank, N.A. (the "**Collection Account**"), of all cash receipts and collections, including, without limitation, the following:

(i) all available cash receipts from the sale of Inventory and other assets;

(ii) all proceeds of collections of Accounts;

(iii) all Net Asset Sale Proceeds and Net Insurance/Condemnation Proceeds, and all other cash payments received by a Credit Party

from any Person or from any source or on account of any sale or other transaction or event;

(iv) the then contents of each Deposit Account;

(v) the then entire ledger balance of each Blocked Account; and

(vi) the net proceeds of all credit card charges.

(b) The Collection Account shall at all times be in the name, and under the sole dominion and control of the Collateral Agent. The Credit Parties hereby acknowledge and agree that (i) the Credit Parties have no right of withdrawal from the Collection Account, (ii) the funds on deposit in the Collection Account shall at all times be collateral security for all of the Obligations and (iii) the funds on deposit in the Collection Account shall be applied as provided in this Agreement. In the event that, notwithstanding the provisions of this Section 5.15, any Credit Party receives or otherwise has dominion and control of any such proceeds or collections, such proceeds and collections shall be held in trust by such Credit Party for the Collateral Agent, shall not be commingled with any of such Credit Party's other funds or deposited in any account of such Credit Party and shall, not later than the Business Day after receipt thereof, be deposited into the Collection Account or dealt with in such other fashion as such Credit Party may be instructed by the Collateral Agent.

SECTION 6. NEGATIVE COVENANTS

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

6.1 Indebtedness. Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or guaranty, or otherwise become or remain directly or indirectly liable with respect to any Indebtedness, except:

(a) the Obligations;

(b) Company may become and remain liable with respect to Indebtedness to any of its wholly-owned Guarantor Subsidiaries, and any wholly-owned Guarantor Subsidiary of Company may become and remain liable with respect to Indebtedness to Company or any other wholly-owned Guarantor Subsidiary of Company; provided, (i) all such Indebtedness under this subclause (b) shall be (x) evidenced by promissory notes and all such notes shall be subject to a First Priority or Second Priority Lien (in accordance with the priorities set forth in the

Intercreditor Agreement) pursuant to the Pledge and Security Agreement and (y) unsecured and subordinated in right of payment to the payment in full of the Obligations pursuant to the terms of the applicable promissory notes or an intercompany subordination agreement that in any such case, is reasonably satisfactory to Administrative Agent, and (ii) any payment by any such Subsidiary under any guaranty of the Obligations shall result in a pro tanto reduction of the amount of any Indebtedness owed by such Subsidiary to Company or to any of its Subsidiaries for whose benefit such payment is made;

(c) [RESERVED];

(d) Indebtedness of Company and its Subsidiaries arising in respect of netting services or overdraft protections with deposit accounts; provided, that such Indebtedness is extinguished within three (3) Business Days of its incurrence;

(e) guaranties by Company of Indebtedness of a Guarantor Subsidiary or guaranties by a Subsidiary of Company of Indebtedness of Company or a Guarantor Subsidiary with respect, in each case, to Indebtedness otherwise permitted to be incurred pursuant to this Section 6.1;

(f) Indebtedness of Company and its Subsidiaries existing on the Closing Date and described in Schedule 6.1, but not any extensions, renewals, refinancings or replacements of such Indebtedness except (i) renewals and extensions expressly provided for in the agreements evidencing any such Indebtedness as the same are in effect on the date of this Agreement and (ii) refinancings and extensions of any such Indebtedness if the terms and conditions thereof are not materially less favorable (taken as a whole) to the obligor thereon or to the Lenders than the Indebtedness being refinanced or extended, and the average life to maturity thereof is greater than or equal to that of the Indebtedness being refinanced or extended; provided, such Indebtedness permitted under the immediately preceding clause (i) or (ii) above shall not (A) include Indebtedness of an obligor that was not an obligor with respect to the Indebtedness being extended, renewed or refinanced or (B) exceed in a principal amount the

Indebtedness being renewed, extended or refinanced;

(g) purchase money Indebtedness of Company and its Subsidiaries and Capital Leases (other than in connection with sale-leaseback transactions) of Company and its Subsidiaries, in each case incurred in the ordinary course of business to provide all or a portion of the purchase price or cost of construction of an asset or an improvement of an asset not constituting part of the Collateral; provided, that (A) such Indebtedness when incurred shall not exceed the purchase price or cost of improvement or construction of such asset, (B) no such Indebtedness shall be refinanced for a principal amount in excess of the principal balance outstanding thereon at the time of such refinancing, (C) such Indebtedness shall be secured only by the asset acquired, constructed or improved in connection with the incurrence of such Indebtedness and (D) the aggregate principal amount of all such Indebtedness shall not exceed $7,500,000 at any time outstanding;

(h) other Indebtedness of Company and its Subsidiaries, which is unsecured, in an aggregate principal amount not to exceed $10,000,000 at any time outstanding;

(i) Indebtedness of Company under any Interest Rate Agreement or Currency Agreement entered into for hedging purposes and in form and substance reasonably satisfactory to the Administrative Agent;

(j) Indebtedness evidenced by the Term Loan Documents in an aggregate amount not to exceed an amount equal to $125.0 million less the amount of all mandatory or scheduled payments thereon incurred pursuant to the Term Loan Facility and any Permitted Refinancing thereof;

(k) additional senior unsecured or subordinated unsecured Indebtedness, the terms and conditions of which (i) shall provide for a maturity date at least one year after the Maturity Date hereunder and with no scheduled amortization or other scheduled payments of principal prior to such date, and (ii) shall otherwise be reasonably satisfactory to Administrative Agent; provided, that (A) after giving pro forma effect to the incurrence of such Indebtedness (and, if applicable, giving pro forma effect to any Subject Transaction pursuant to Section 6.8(c)), (1) the Leverage Ratio is not greater than 4.0 to 1.0 or (2) the Consolidated Coverage Ratio is at least 2.0 to 1.0 and (B) no Default or Event of Default has occurred or is continuing at the time of incurrence or would result therefrom;

(l) Indebtedness of a Person existing at the time such Person becomes a Subsidiary of Company following the Closing Date, which Indebtedness is in existence at the time such Person becomes a Subsidiary and is not created in connection with or in contemplation of such Person becoming a Subsidiary; provided that the aggregate principal amount of all such Indebtedness in the aggregate shall not exceed $5,000,000 at any time outstanding;

(m) Indebtedness of Holdings which is unsecured and subordinated to the Obligations in a manner satisfactory to Administrative Agent and which is issued in connection with the redemption or replacement of any preferred Capital Stock of Holdings, in principal amount not to exceed the amount of such preferred Capital Stock being redeemed or replaced, the terms and conditions of which (i) shall provide for a maturity date at least one year after the Maturity Date hereunder, with no scheduled amortization of principal or mandatory prepayments prior to such date, (ii) no scheduled or mandatory cash interest payments prior to such date, except to the extent Holdings has sufficient cash therefor and (iii) shall otherwise be satisfactory to Administrative Agent;

(n) Capital Leases of Company entered into in connection with sale-leaseback transactions permitted by Section 6.3;provided, that (A) no such Indebtedness shall be refinanced for a principal amount in excess of the principal balance outstanding thereon at the

time of such refinancing and (B) such Indebtedness shall be secured only by the facility which is the subject of such Capital Lease; and

(o) additional secured Indebtedness, the terms and conditions of which (i) shall provide for a maturity date at least one year after the Maturity Date hereunder and with no scheduled amortization of principal prior to such date, (ii) unless reasonably satisfactory to the Administrative Agent pursuant to clause (iii) below, shall be no more restrictive (without taking into account fees or interest rates), taken as a whole, than those set forth in the Term Loan Documents as in effect on the Closing Date, and (iii) shall otherwise be reasonably satisfactory to Administrative Agent; provided, that (A) after giving pro forma effect to the incurrence of such Indebtedness (and, if applicable, giving pro forma effect to any Subject Transaction pursuant to Section 6.8(c)), the Secured Debt Ratio is less than 2.5 to 1.0 and (B) no Default or Event of Default has occurred or is continuing at the time of incurrence or would result therefrom.

Liens. Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or permit to exist any Lien on or with respect to any property or asset of any kind (including any document or instrument in respect of goods or accounts receivable) of Holdings, Company or any such Subsidiaries, whether now owned or hereafter acquired, or any income or profits therefrom, except:

(a) Liens in favor of Collateral Agent for the benefit of Secured Parties granted pursuant to any Credit Document;

(b) Liens imposed by law for Taxes that are not yet required to be paid pursuant to Section 5.3;

(c) statutory Liens of landlords, banks (and rights of set-off), of carriers, warehousemen, mechanics, repairmen, workmen and materialmen, and other Liens imposed by law (other than any such Lien imposed pursuant to Section 401(a)(29) or 412(n) of the Internal Revenue Code or by ERISA), in each case incurred in the ordinary course of business (i) for amounts not yet overdue or (ii) for amounts that are overdue and that (in the case of any such amounts overdue for a period in excess of five (5) days) are being contested in good faith by appropriate proceedings, so long as such reserves or other appropriate provisions, if any, as shall be required by GAAP shall have been made for any such contested amounts;

(d) deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, or to secure the performance of tenders, statutory obligations, surety and appeal bonds, bids, leases, government contracts, trade contracts, performance and return-of-money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money or other Indebtedness),

so long as no foreclosure, sale or similar proceedings have been commenced with respect to any portion of the Collateral on account thereof;

(e) easements, rights-of-way, restrictions, encroachments, minor defects or irregularities in title and other similar charges, in each case which do not and will not interfere in any material respect with the use or value thereof;

(f) any interest or title of a lessor or sublessor under any operating or true lease of real estate entered into by Company or its Subsidiaries in the ordinary course of its business covering only the assets so leased;

(g) purported Liens evidenced by the filing of precautionary UCC financing statements relating solely to operating leases of personal property entered into in the ordinary course of business;

(h) any attachment or judgment Lien not constituting an Event of Default under Section 8.1(h);

(i) non-exclusive licenses of Intellectual Property granted by Company or any of its Subsidiaries in the ordinary course of business consistent with past practice and not interfering in any respect with the ordinary conduct of the business of Company or such Subsidiary;

(j) bankers liens and rights of set-off with respect to customary depositary arrangements entered into in the ordinary course of business of Company and its Subsidiaries;

(k) Liens granted by Company or its Subsidiaries existing on the Closing Date and described in Schedule 6.2; provided, that (A) no such Lien shall at any time be extended to cover property or assets other than the property or assets subject thereto on the Closing Date and (B) the principal amount of the Indebtedness secured by such Liens shall not be extended, renewed, refunded, replaced or refinanced except as otherwise permitted by Section 6.1(f);

(l) Liens securing (i) Indebtedness permitted pursuant to Section 6.1(g), provided, any such Lien shall encumber only the asset acquired, constructed or improved with the proceeds of such Indebtedness and (ii) Indebtedness permitted pursuant to Section 6.1(n), provided any such Lien shall encumber only the facility with is the subject of such Capital Lease;

(m) Liens securing Indebtedness permitted under Section 6.1(l); provided that such Liens are of a type described in Section 6.2(l)(i) and are not created in contemplation of or in connection with such Person becoming a Subsidiary, such Liens will not apply to any other

property of Holdings or any of its Subsidiaries, and such Liens will secure only those obligations secured by such Liens on the date such Person becomes a Subsidiary; and

(n) Liens securing Indebtedness permitted under Section 6.1(j) or 6.1(o).

Sales and Leasebacks. Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to directly or indirectly, become or remain liable as lessee or as a guarantor or other surety with respect to any lease, whether an operating lease or a Capital Lease, of any property (whether real, personal or mixed), whether now owned or hereafter acquired, (a) which Holdings or any of its Subsidiaries has sold or transferred or is to sell or transfer to any other Person (other than Holdings or any of its Subsidiaries) or (b) which Holdings or any of its Subsidiaries intends to use for substantially the same purpose as any other property which has been or is to be sold or transferred by such Credit Party to any Person (other than Holdings or any of its Subsidiaries) in connection with such lease; provided that Company and its Subsidiaries may (i) become and remain liable as lessee, guarantor or other surety with respect to any such lease which is a Capital Lease permitted pursuant to Section 6.1(g), and (ii) so long as no Default or Event of Default has occurred or is continuing or shall be caused thereby, sale-leaseback transactions in respect of any manufacturing Facilities owned by Company as of the Closing Date; provided, further, that (A) the material terms and conditions of such sale-leaseback transaction (including any Capital Lease in connection with such transaction) shall be reasonably satisfactory to the Administrative Agent, (B) Collateral Agent is granted a valid First Priority or Second Priority Lien (in accordance with priorities set forth in the Intercreditor Agreement) in Company's leasehold interest in connection with such transaction, (C) the lessor (or lenders under any Capital Lease) in connection with such transaction shall agree to provide Collateral Agent access to the Collateral located at such facility pursuant to an agreement reasonably satisfactory to Administrative Agent and the Collateral Agent (the terms of which shall include subordination and non-disturbance provisions with respect to any such Collateral, and other terms as may be reasonably required by Administrative Agent or the Collateral Agent), (D) the amount of consideration payable to Company or its Subsidiaries (and the aggregate principal amount of Indebtedness in respect of any Capital Leases) in any such transaction shall not exceed the fair market value of any such facility (determined in good faith by the board of directors of Company (or similar governing body)), and shall not exceed $30,000,000 in the aggregate and (E) the Net Asset Sale Proceeds with respect to any such Capital Lease shall be applied to repay indebtedness under the Term Loan Facility if and to the extent required thereunder.

No Further Negative Pledges. Except (i) pursuant to this Agreement, (ii) pursuant to the terms of Indebtedness permitted under Section 6.1(h), 6.1(j), 6.1(k) or 6.1(o), (iii) with respect to specific property encumbered to secure payment of particular Indebtedness or to be sold pursuant to an executed agreement with respect to a permitted Asset Sale, (iv) pursuant to customary non-assignment or no-subletting clauses in leases, licenses or contracts entered into in the ordinary course of business, which restrict only the assignment of such lease, license or contract, as applicable, or (v) in connection with purchase money financing or Capital Leases permitted under Section 6.1(g), 6.1(l) or 6.1(n) (in each case provided the prohibition applies

only to the asset being acquired or constructed, or which is the subject of such Capital Lease), each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to, enter into any agreement prohibiting the creation or assumption of any Lien upon any of its properties or assets, whether now owned or hereafter acquired.

Restricted Payments. Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries or Affiliates through any manner or means or through any other Person to, directly or indirectly, declare, order, pay, make or set apart, or agree to declare, order, pay, make or set apart, or agree to declare, order, pay, make or set apart, any sum for any Restricted Payment except that:

(a) Subsidiaries of Company may make Restricted Payments (i) to Company or to any parent entity of such Subsidiary which is a wholly-owned Guarantor Subsidiary and (ii) so long as no Liquidity Event or Default or Event of Default has occurred and is then continuing, on a pro rata basis to the equity holders of any other Guarantor Subsidiary;

(b) (i) so long as no Liquidity Event or Default or Event of Default shall have occurred and be continuing or shall be caused thereby, Company and its Subsidiaries may make prepayments and regularly scheduled payments of principal and interest in respect of any Indebtedness permitted under Sections 6.1(b), (ii) Company and its Subsidiaries may make scheduled payments and mandatory prepayments of principal, and regularly scheduled payments of interest in respect of and, so long as no Liquidity Event or Default or Event of Default shall have occurred and be continuing, voluntary repayments of, any Indebtedness permitted under Section 6.1(h), (iii) Company and its Subsidiaries may make mandatory prepayments and regularly scheduled payments of principal and interest in respect of any Indebtedness permitted under Section 6.1(k) (to the extent constituting subordinated Indebtedness) or 6.1(n), but only to the extent such payments are permitted by the terms, and subordination provisions (if any) applicable to, such Indebtedness, and (iv) Company and its Subsidiaries may make payments in respect of guarantees permitted under Section 6.1(e) to the extent the Indebtedness guaranteed thereby is permitted to be paid under this Section 6.5 (in each case under the foregoing subclauses (i), (ii) and (iii) in accordance with the terms of, and only to the extent required by, and subject to the subordination provisions contained in, the indenture or other agreement pursuant to which such Indebtedness as issued);

(c) Company may make Restricted Payments to Holdings to the extent reasonably necessary to permit Holdings (in each case so long as Holdings applies the amount of any such Restricted Payment for such purpose within five (5) days of receipt of such amount) (i) to pay general administrative and corporate overhead costs and expenses (including, without limitation, expenses arising by virtue of Holdings' status as a public company (including fees and expenses related to filings with the Securities and Exchange Commission, roadshow expenses, printing expenses and fees and expenses of attorneys and auditors)), (ii) so long as no Default or Event of Default, in each case, in respect of Section 8.1(a), 8.1(f) or 8.1(g) shall have occurred and be continuing or shall be caused thereby, to pay the fees and expenses to Sponsor required to

be paid under the Management Services Agreement, as in effect on December 16,

2004 or after giving effect to any amendment, restatement or other modification thereto in accordance with Section 6.15(a) hereof, (iii) to discharge the consolidated tax liabilities of Holdings and its Subsidiaries and (iv) so long as no Liquidity Event or Default or Event of Default shall have occurred and be continuing or shall be caused thereby, to allow Holdings to repurchase shares of, or options to purchase shares of, Capital Stock of Holdings from employees, officers or directors of Holdings, Company or any Subsidiaries thereof in any aggregate amount not to exceed $1,000,000 in any calendar year or $5,000,000 in the aggregate since the Closing Date;

(d) (i) Company may make Restricted Payments to Holdings in an aggregate amount not to exceed the Restricted Payment Amount (measured on the date of such Restricted Payment); provided that, notwithstanding the foregoing, in any four Fiscal Quarter period, the Company may make Restricted Payments to Holdings in an amount not to exceed the Periodic Dividend Amount; provided further, that, in any case, any Restricted Payment under this Section 6.5(d)(i) may only be made so long as (w) no Liquidity Event or Default or Event of Default has occurred or is continuing or shall be caused thereby after giving effect to such Restricted Payment, (x) after giving effect to such Restricted Payment, Holdings and its Subsidiaries shall have satisfied the RP Conditions, (y) to the extent Consolidated Adjusted EBITDA for the Test Period most recently ended prior to such Restricted Payment is less than or equal to $40,000,000, after giving effect to such Restricted Payment, the total amount of Restricted Payments made pursuant to this Section 6.5(d)(i) during the Fiscal Quarter in which the subject Restricted Payment is to be paid and the three Fiscal Quarters most recently ended does not exceed any applicable Maximum Restricted Payment Amount, and (z) a Section 6.5(d) Certificate has been delivered; and (ii) Holdings may make Restricted Payments in an amount equal to the actual amount of Restricted Payments made by Company to Holdings pursuant to Section 6.5(d)(i) that have not previously been distributed by Holdings, so long as no Liquidity Event or Default or Event of Default shall have occurred and be continuing or shall be caused thereby; provided, however, that notwithstanding anything to the contrary contained in this Section 6.5(d), this Section 6.5(d)(ii) shall not prohibit the payment of any dividend within 60 days after the date of declaration of such dividend if such dividend was permitted under this Section 6.5(d)(ii) on the date of declaration;

(e) (i) so long as no Default or Event of Default, in each case, in respect of Sections 8.1(a), 8.1(f) or 8.1(g) shall have occurred and be continuing or shall be caused thereby, Holdings may make Restricted Payments to Sponsor to the extent of Restricted Payments received by Holdings from Company pursuant to Sections 6.5(c)(ii) and (ii) so long as no Liquidity Event or Default or Event of Default shall have occurred and be continuing or shall be caused thereby, Holdings may make Restricted Payments (x) as described in Section 6.5(c)(iv) and (y) in respect of Indebtedness permitted by Section 6.1(m) and in connection with the redemption or replacement of any preferred Capital Stock of Holdings described in Section 6.1(m);

(f) additional Restricted Payments in an aggregate amount not to exceed at any time outstanding $10,000,000 (minus any Investments made pursuant to Section 6.7(l)), if no

Liquidity Event or Default or Event of Default has occurred or is continuing or would result therefrom; provided that any Restricted Payment made pursuant to this Section 6.5(f) may not subsequently be characterized as a Restricted Payment made pursuant to any other provision of this Agreement; and

(g) if no Default or Event of Default has occurred or is continuing or would result therefrom, additional Restricted Payments in an aggregate amount not to exceed $25,000,000, which Restricted Payments are funded exclusively by Holdings Equity Proceeds that have not been applied to any other purpose; provided that any Restricted Payment made pursuant this Section 6.5(g) may not subsequently be characterized as a Restricted Payment made pursuant to any other provision of this Agreement.

Restrictions on Subsidiary Distributions. Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction of any kind on the ability of any Subsidiary of Company to (a) pay dividends or make any other distributions on any of such Subsidiary's Capital Stock owned by Company or by any other Subsidiary of Company, (b) repay or prepay any Indebtedness owed by such Subsidiary to Company or to any other Subsidiary of Company, (c) make loans or advances to Company or to any other Subsidiary of Company, or (d) transfer any of its property or assets to Company or to any other Subsidiary of Company other than restrictions (i) existing under this Agreement or the Term Loan Documents (as in effect on the Closing Date), (ii) in agreements evidencing Indebtedness permitted by Sections 6.1(g) and 6.1(l) that impose restrictions on the property so acquired, (iii) by reason of customary provisions restricting assignments, subletting or other transfers contained in leases, licenses, Joint Venture agreements and similar agreements entered into in the ordinary course of business, (iv) restrictions in agreements evidencing Indebtedness secured by Liens permitted by Section 6.2(m) that impose restrictions on the property securing such Indebtedness, (v) customary restrictions on assets that are the subject of an Asset Sale permitted by Section 6.9 or a Capital Lease permitted by Section 6.1(n) and (vi) in agreements evidencing Indebtedness permitted by Section 6.1(h) or 6.1(k), in each case, so long as such restrictions are not more restrictive, taken as a whole, than the restrictions set forth in this Agreement.

Investments. Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, make or own any Investment in any Person, including without limitation any Joint Venture, except:

(a) Investments in Cash and Cash Equivalents;

(b) Investments by Holdings in Company;

(c) Investments made by Company or any of its Subsidiaries in Subsidiary Guarantors which are wholly-owned Subsidiaries of Company;

(d) Investments received by Company or any of its Subsidiaries in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with, customers or suppliers of such Person, in each case in the ordinary course of business;

(e) accounts receivable arising, and trade credit granted, in the ordinary course of business of Company and its Subsidiaries, and any Securities received by Company or any of its Subsidiaries in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss, and any prepayments and other credits to suppliers made in the ordinary course of business;

(f) intercompany loans to the extent permitted under Section 6.1(b);

(g) Consolidated Capital Expenditures by Company or any of its Subsidiaries permitted by Section 6.8(b);

(h) loans and advances by Company or any of its Subsidiaries to employees of Company and its Subsidiaries made in the ordinary course of business in an aggregate principal amount not to exceed $2,000,000 at any time outstanding;

(i) Investments by Company or any of its Subsidiaries made in connection with Permitted Acquisitions permitted pursuant to Section 6.9(d);

(j) Investments by Company or any of its Subsidiaries constituting non-Cash consideration received by Company and its Subsidiaries in connection with permitted Asset Sales pursuant to subsection 6.9(c);

(k) Company and its Subsidiaries may continue to own the Investments owned by them as of the Closing Date and described in Schedule 6.7;

(l) other Investments by Company or any of its Subsidiaries in an aggregate amount not to exceed at any time outstanding $10,000,000 (minus any Restricted Payments made pursuant to Section 6.5(f)), if no Liquidity Event or Default or Event of Default has occurred or is continuing or would result therefrom; and

(m) additional Investments by Company or any of its Subsidiaries in an aggregate amount not to exceed the Restricted Payment Amount so long as (i) no Liquidity

Event or Default or Event of Default has occurred or is continuing or shall be caused thereby after giving effect to such Investment and (ii) after giving effect to such Investment, Company and its Subsidiaries shall have satisfied the Investment Conditions.

Notwithstanding the foregoing, in no event shall any Credit Party make any Investment which results in or facilitates in any manner any Restricted Payment not otherwise permitted under the terms of Section 6.5.

Financial Covenants.

(a) Minimum Fixed Charge Coverage Ratio. Upon the occurrence and during the continuance of a Liquidity Event, Company shall not permit the Fixed Charge Coverage Ratio for any Test Period for which a Fixed Charge Coverage Compliance Certificate is required to be delivered to be less than 1.0 to 1.0.

(b) Maximum Consolidated Capital Expenditures. Holdings and Company shall not, and shall not permit its Subsidiaries to, make or incur Consolidated Capital Expenditures, except that Company and any Guarantor Subsidiary may make or incur Consolidated Capital Expenditures (i) during any calendar year in an aggregate amount not in excess of (A) $10,000,000 plus (B) the unused portion of Consolidated Capital Expenditures permitted to be made or incurred in the immediately preceding calendar year (it being understood that the amount under this subclause (B) shall not exceed the lesser of such unused portion and $10,000,000) and (ii) associated with the consolidation of Facilities and costs associated with the acquiring and/or the development and construction of one new manufacturing facility in an aggregate amount not to exceed $15,000,000.

(c) Certain Calculations.

(i) With respect to any period during which a Permitted Acquisition or an Asset Sale has occurred (each, a"**Subject Transaction**"), for purposes of determining compliance with the financial covenants set forth in this Section 6.8 and the Leverage Ratio calculation in Section 6.1(k), Consolidated Adjusted EBITDA and the components of Consolidated Fixed Charges, as applicable, shall be calculated with respect to such period on a pro forma basis (including pro forma adjustments arising out of events which are directly attributable to a specific transaction, are factually supportable and are expected to have a continuing impact, in each case determined on a basis consistent with Article 11 of Regulation S-X promulgated under the Securities Act and as interpreted by the staff of the Securities and Exchange Commission, which would include cost savings resulting from head count reduction, closure

of Facilities and similar restructuring charges, which pro forma adjustments shall be certified by the chief financial officer of Company) using the historical audited financial statements of any business so acquired or to be acquired or sold or to be sold and the consolidated financial statements of Holdings and its Subsidiaries which shall be reformulated as if such Subject Transaction, and any Indebtedness incurred or repaid in connection therewith, had been consummated or incurred or repaid at the beginning of such period.

(ii) With respect to any period commencing prior to the Closing Date, for purposes of determining compliance with the financial covenants set forth in this Section 6.8, Consolidated Adjusted EBITDA shall be calculated with respect to the portion of such period prior to the Closing Date based on the historical Consolidated Adjusted EBITDA of the Company during such time, Consolidated Capital Expenditures shall be calculated with respect to the portion of such period prior to the Closing Date based on the historical Consolidated Capital Expenditures of the Company during such time, and the other components of Consolidated Fixed Charges (other than Consolidated Interest Expense) shall be calculated with respect to the portion of such period prior to the Closing Date on a pro forma basis as if the Closing Date occurred on the first day of such period.

(iii) With respect to any period commencing prior to the Closing Date, for purposes of determining compliance with the financial covenants set forth in this Section 6.8, Consolidated Interest Expense shall be calculated with respect to the portion of such period prior to the Closing Date on a pro forma basis as if the Closing Date occurred on the first day of such period (and assuming that the Indebtedness incurred on the Closing Date was incurred on the first day of such period and, such Indebtedness bears interest during the portion of such period prior to the Closing Date at the weighted average of the interest rates applicable to outstanding Indebtedness during the portion of such period on and after the Closing Date and that no Indebtedness was repaid during the portion of such period prior to the Closing Date).

Fundamental Changes; Asset Dispositions; Acquisitions. Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, enter into any transaction of merger or consolidation, or liquidate, wind-up or dissolve itself (or suffer any liquidation or dissolution), or convey, sell, lease or sub-lease (as lessor or sublessor), exchange, transfer or otherwise dispose of, in one transaction or a series of transactions, all or

any part of its business, assets or property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible, whether now owned or hereafter acquired, or acquire by purchase or otherwise the business, or all or substantially all of the property or fixed assets of, or stock or other evidence of beneficial ownership of, any Person or any division or line of business or other business unit of any Person, except:

(a) any Subsidiary of Holdings may be merged with or into Company or with or into any wholly-owned Guarantor Subsidiary of Company, or be liquidated, wound up or dissolved, or all or any part of its business, property or assets may be conveyed, sold, leased, transferred or otherwise disposed of, in one transaction or a series of transactions, to Company or any wholly-owned Guarantor Subsidiary of Company; provided, in the case of such a merger, Company or such wholly-owned Guarantor Subsidiary of Company, as applicable shall be the continuing or surviving Person;;

(b) sales or other dispositions of assets that do not constitute Asset Sales;

(c) Asset Sales, the proceeds of which (valued at the principal amount thereof in the case of non-Cash proceeds consisting of notes or other debt Securities and valued at fair market value in the case of other non-Cash proceeds) (i) do not exceed $5,000,000 in the aggregate in any calendar year and (ii) when aggregated with the proceeds of all other Asset Sales, do not exceed $15,000,000 in the aggregate from the Closing Date to the date of determination; provided (1) the consideration received for such assets shall be in an amount at least equal to the fair market value thereof (and in respect of a transaction of greater than $2,500,000, as determined in good faith by the board of directors of Company (or similar governing body)), (2) no less than 80% thereof shall be paid in Cash, and (3) the Net Asset Sale Proceeds thereof shall be applied in accordance with the Term Loan Facility (to the extent required thereby);

(d) Permitted Acquisitions, the consideration for which constitutes either (i) common Capital Stock of Holdings or (ii) (x) no more than $20,000,000 in the aggregate in any calendar year unless (and subject to clause (y) below) before and after giving effect to any such Permitted Acquisitions the Fixed Charge Coverage Ratio is at least 1.0 to 1.0 for the four Fiscal Quarter period most recently ended, calculated to give effect to such Permitted Acquisition in accordance with Section 6.8(c) as if such Permitted Acquisition occurred on the first day of such four Fiscal Quarter period, as demonstrated in a Fixed Charge Coverage Compliance Certificate delivered to the Administrative Agent prior to such Permitted Acquisition, and (y) no more than $60,000,000 in the aggregate from the Closing Date;

(e) Investments made in accordance with Section 6.7; and

(f) sale and leaseback transactions permitted pursuant to Section 6.3.

Disposal of Subsidiary Interests. Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to (a) directly or indirectly issue, sell, assign, pledge or otherwise encumber or dispose of any Capital Stock of any of its Subsidiaries, except to qualify directors if required by applicable law or (b) permit any of its Subsidiaries directly or indirectly to issue, sell, assign, pledge or otherwise encumber or dispose of any Capital Stock of any of its Subsidiaries, except (i) Company may issue Capital Stock to Holdings, (ii) Subsidiaries may issue Capital Stock to Company or to a Guarantor Subsidiary of Company (subject to the restrictions on such disposition otherwise imposed under Section 6.9) or to qualify directors if required by applicable law and (iii) Company or any Subsidiary may sell or otherwise dispose of the Capital Stock of its Subsidiaries in an Asset Sale permitted by Section 6.9.

Fiscal Year. Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to, change its Fiscal Year-end from December 31;provided, that the Fiscal Year-end of Holdings and its Subsidiaries may be changed to the end of any Fiscal Quarter with the prior written consent of, and following receipt of any information requested by, Administrative Agent (including, without limitation, reconciliation statements for the immediately preceding three years described in Section 5.1(e)).

Transactions with Shareholders and Affiliates. Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service or the making of any loan) with any holder of 10% or more of any class of Capital Stock of Holdings or any of its Subsidiaries or with any Affiliate of Holdings or of any such holder, on terms that are less favorable to Holdings or that Subsidiary, as the case may be, than those that might be obtained at the time from a Person who is not such a holder or Affiliate; provided, the foregoing restriction shall not apply to (a) any transaction expressly permitted under this Agreement; (b) reasonable and customary fees paid to, and customary indemnification of, members of the board of directors (or similar governing body) of Holdings and its Subsidiaries; (c) compensation arrangements for officers and other employees of Holdings and its Subsidiaries entered into in the ordinary course of business; (d) transactions described in Schedule 6.12; and (e) any transaction between Credit Parties.

Conduct of Business. From and after the Closing Date, each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to, engage in any business other than (i) the businesses engaged in by Company on the Closing Date and similar or related businesses and (ii) such other lines of business as may be consented to by Requisite Lenders.

Permitted Activities of Holdings. Holdings shall not (a) incur, directly or indirectly, any Indebtedness other than the Indebtedness (i) under the Credit Documents, (ii) under the the Term Loan Documents and (iii) permitted by Section 6.1(m); (b) create or suffer to exist any Lien upon any property or assets now owned or hereafter acquired by it other than the Liens created under the Collateral Documents to which it is a party; (c) engage in any business or activity or own any assets other than (i) holding 100% of the Capital Stock of Company; (ii) performing its obligations and activities incidental thereto under the Credit Documents, and

to the extent not inconsistent therewith, the Term Loan Documents; (iii) making Restricted Payments to the extent permitted by Section 6.5 of this Agreement and Section 6.5 of the Term Loan Facility; (iv) making Investments to the extent permitted by Section 6.7 of this Agreement and Section 6.7 of the Term Loan Facility; (v) issuances of its Capital Stock; (vi) conducting activities arising by virtue of its status as a public company, including without limitation, compliance with its reporting obligations and other requirements applicable to public companies; and (vii) retaining Cash in a deposit account subject to a Blocked Account Agreement in the amount of any Restricted Payments received from the Company pursuant to Section 6.5(d)(i); (d) consolidate with or merge with or into, or convey, transfer or lease all or substantially all its assets to, any Person; (e) sell or otherwise dispose of any Capital Stock of any of its Subsidiaries; (f) create or acquire any Subsidiary or make or own any Investment in any Person other than Company; or (g) fail to hold itself out to the public as a legal entity separate and distinct from all other Persons.

Amendments or Waivers of Certain Agreements.

(a) Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to, terminate or agree to any amendment, restatement, supplement or other modification to, or waiver of, any of its rights under any Term Loan Document, any Organizational Document or the Management Services Agreement, or make any payment consistent with an amendment thereof or change thereto (which amendment or other modification, in the case of (i) an Organizational Document or any Term Loan Document, is adverse in any material respect to the rights or interests of the Lenders (provided that with respect to any termination, amendment, restatement, supplement or other modification to, or waiver of any Term Loan Document, none of the following amendments shall be deemed adverse for purposes of this clause (i): (A) payment of customary fees in connection with any amendment or waiver, or (B) any amendment implementing incremental or additional loans and/or commitments under the Term Loan Documents to the extent the Indebtedness in respect thereof is permitted under Section 6.1) and (ii) the Management Services Agreement, involves the imposition of additional fees or any increase in fees payable thereunder (other than as set forth in this Section 6.15) or is adverse in any respect to the rights or interests of the Lenders), without in each case obtaining the prior written consent of Requisite Lenders to such amendment, restatement, supplement or other modification or waiver. Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries to, amend or otherwise change the terms of any Indebtedness permitted to be incurred under Section 6.1 which is subordinated to the Obligations, or make any payment consistent with an amendment thereof or change thereto, if the effect of such amendment or change is to increase the interest rate on or fees in respect of such Indebtedness, change (to earlier dates) any dates upon which payments of principal or interest are due thereon, change any event of default or condition to an event of default with respect thereto (other than to eliminate any such event of default or increase any grace period related thereto), change the redemption, prepayment or defeasance provisions thereof, change the subordination provisions thereof (or of any guaranty thereof), or change any collateral therefor (other than to release such collateral), or if the effect of such amendment or change, together with all other amendments or changes made, is to increase materially the obligations of the obligor thereunder or to confer any additional rights on the holders of such

Indebtedness (or a trustee or other representative on their behalf) which would be adverse to Holdings or Company, any of their Subsidiaries, or Lenders. Notwithstanding the foregoing, this Section 6.15 shall not apply to any amendment to the Management Services Agreement, or the termination thereof, executed or made in connection with a Qualifying IPO; provided, that the payments made in connection therewith shall not exceed the Qualifying IPO Payment.

Limitation on Payments Relating to Other Debt. Each of Holdings and Company shall not, and shall not permit any of its Subsidiaries through any manner or means or through any other Person to, directly or indirectly, declare, order, make or offer to make, any prepayment, repurchase or redemption of, or otherwise defease, the Indebtedness permitted to be incurred under Section 6.1(k) (such Indebtedness, "**Other Debt**"), or segregate funds for any such prepayment, repurchase, redemption or defeasance, or enter into any derivative or other transaction with any financial institution, commodities or stock exchange or clearinghouse (a "**Derivatives Counterparty**") obligating Holdings, the Company or any Subsidiary to make payments to such Derivatives Counterparty as a result of any change in market value of Other Debt, other than (a) any prepayment, repurchase or redemption of Other Debt pursuant to a Permitted Refinancing thereof and (b) prepayments, repurchases or redemptions of Other Debt in an aggregate amount not to exceed the Restricted Payment Amount so long as (i) no Default or Event of Default has occurred or is continuing or shall be caused thereby after giving effect to such payment and (ii) after giving effect to such payment, the Company and its Subsidiaries shall have satisfied the Investment Conditions. Notwithstanding anything to the contrary contained in this Agreement, the Credit Parties are permitted to redeem the Senior Notes pursuant to the Qualifying Senior Notes Redemption. Notwithstanding anything to the contrary contained in this Agreement, Holdings is permitted to prepay, repurchase or redeem Other Debt utilizing Holdings Equity Proceeds that have not been applied to any other purpose, if no Default or Event of Default has occurred or is continuing or would result therefrom; provided that any prepayment, repurchase or redemption or Other Debt pursuant to this sentence may not subsequently be characterized as having been made pursuant to any other provision of this Agreement.

SECTION 7. GUARANTY

Guaranty of the Obligations. Subject to the provisions of Section 7.2, Guarantors jointly and severally hereby irrevocably and unconditionally guaranty to the Beneficiaries the due and punctual payment in full of all Obligations when the same shall become due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. § 362(a)) (collectively, the "**Guaranteed Obligations**").

Contribution by Guarantors. All Guarantors desire to allocate among themselves (collectively, the"**Contributing Guarantors**"), in a fair and equitable manner, their obligations arising under this Guaranty. Accordingly, in the event any payment or distribution is made on any date by a Guarantor (a "**Funding Guarantor**") under this Guaranty such that its

Aggregate Payments exceeds its Fair Share as of such date, such Funding Guarantor shall be entitled to a contribution from each of the other Contributing Guarantors in an amount sufficient to cause each Contributing Guarantor's Aggregate Payments to equal its Fair Share as of such date. "**Fair Share**" means, with respect to a Contributing Guarantor as of any date of determination, an amount equal to (a) the ratio of (i) the Fair Share Contribution Amount with respect to such Contributing Guarantor to (ii) the aggregate of the Fair Share Contribution Amounts with respect to all Contributing Guarantors multiplied by (b) the aggregate amount paid or distributed on or before such date by all Funding Guarantors under this Guaranty in respect of the obligations Guaranteed. "**Fair Share Contribution Amount**" means, with respect to a Contributing Guarantor as of any date of determination, the maximum aggregate amount of the obligations of such Contributing Guarantor under this Guaranty that would not render its obligations hereunder or thereunder subject to avoidance as a fraudulent transfer or conveyance under Section 548 of Title 11 of the United States Code or any comparable applicable provisions of state law; provided, solely for purposes of calculating the"**Fair Share Contribution Amount**" with respect to any Contributing Guarantor for purposes of this Section 7.2, any assets or liabilities of such Contributing Guarantor arising by virtue of any rights to subrogation, reimbursement or indemnification or any rights to or obligations of contribution hereunder shall not be considered as assets or liabilities of such Contributing Guarantor. "**Aggregate Payments**" means, with respect to a Contributing Guarantor as of any date of determination, an amount equal to (1) the aggregate amount of all payments and distributions made on or before such date by such Contributing Guarantor in respect of this Guaranty (including, without limitation, in respect of this Section 7.2), minus (2) the aggregate amount of all payments received on or before such date by such Contributing Guarantor from the other Contributing Guarantors as contributions under this Section 7.2. The amounts payable as contributions hereunder shall be determined as of the date on which the related payment or distribution is made by the applicable Funding Guarantor. The allocation among Contributing Guarantors of their obligations as set forth in this Section 7.2 shall not be construed in any way to limit the liability of any Contributing Guarantor hereunder. Each Guarantor is a third party beneficiary to the contribution agreement set forth in this Section 7.2.

Payment by Guarantors. Subject to Section 7.2, Guarantors hereby jointly and severally agree, in furtherance of the foregoing and not in limitation of any other right which any Beneficiary may have at law or in equity against any Guarantor by virtue hereof, that upon the failure of Company to pay any of the Guaranteed Obligations when and as the same shall become due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. § 362(a)), Guarantors will upon demand pay, or cause to be paid, in Cash, to Administrative Agent for the ratable benefit of Beneficiaries, an amount equal to the sum of the unpaid principal amount of all Guaranteed Obligations then due as aforesaid, accrued and unpaid interest on such Guaranteed Obligations (including interest which, but for Company's becoming the subject of a case under the Bankruptcy Code, would have accrued on such Guaranteed Obligations, whether or not a claim is allowed against Company for such interest in the related bankruptcy case) and all other Guaranteed Obligations then owed to Beneficiaries as aforesaid.

Liability of Guarantors Absolute. Each Guarantor agrees that its obligations hereunder are irrevocable, absolute, independent and unconditional and shall not be affected by any circumstance which constitutes a legal or equitable discharge of a guarantor or surety other than payment in full of the Guaranteed Obligations. In furtherance of the foregoing and without limiting the generality thereof, each Guarantor agrees as follows:

(a) this Guaranty is a guaranty of payment when due and not of collectability. This Guaranty is a primary obligation of each Guarantor and not merely a contract of surety;

(b) Administrative Agent may enforce this Guaranty upon the occurrence and during the continuance of an Event of Default notwithstanding the existence of any dispute between Company and any Beneficiary with respect to the existence and continuance of such Event of Default;

(c) the obligations of each Guarantor hereunder are independent of the obligations of Company and the obligations of any other guarantor (including any other Guarantor) of the obligations of Company, and a separate action or actions may be brought and prosecuted against such Guarantor whether or not any action is brought against Company or any of such other guarantors and whether or not Company is joined in any such action or actions;

(d) payment by any Guarantor of a portion, but not all, of the Guaranteed Obligations shall in no way limit, affect, modify or abridge any Guarantor's liability for any portion of the Guaranteed Obligations which has not been paid. Without limiting the generality of the foregoing, if Administrative Agent is awarded a

judgment in any suit brought to enforce any Guarantor's covenant to pay a portion of the Guaranteed Obligations, such judgment shall not be deemed to release such Guarantor from its covenant to pay the portion of the Guaranteed Obligations that is not the subject of such suit, and such judgment shall not, except to the extent satisfied by such Guarantor, limit, affect, modify or abridge any other Guarantor's liability hereunder in respect of the Guaranteed Obligations;

(e) any Beneficiary, upon such terms as it deems appropriate, without notice or demand and without affecting the validity or enforceability hereof or giving rise to any reduction, limitation, impairment, discharge or termination of any Guarantor's liability hereunder, from time to time may (i) renew, extend, accelerate, increase the rate of interest on, or otherwise change the time, place, manner or terms of payment of the Guaranteed Obligations; (ii) settle, compromise, release or discharge, or accept or refuse any offer of performance with respect to, or substitutions for, the Guaranteed Obligations or any agreement relating thereto and/or subordinate the payment of the same to the payment of any other obligations; (iii) request and accept other guaranties of the Guaranteed Obligations and take and hold security for the payment hereof or the Guaranteed Obligations; (iv) release, surrender, exchange, substitute, compromise, settle, rescind, waive, alter, subordinate or modify, with or without consideration, any security for payment of the Guaranteed Obligations, any other guaranties of the Guaranteed Obligations, or any other obligation of any Person (including any other Guarantor) with respect

to the Guaranteed Obligations; (v) enforce and apply any security now or hereafter held by or for the benefit of such Beneficiary in respect hereof or the Guaranteed Obligations and direct the order or manner of sale thereof, or exercise any other right or remedy that such Beneficiary may have against any such security, in each case as such Beneficiary in its discretion may determine consistent herewith or the applicable Hedge Agreement or Banking Services Agreement and any applicable security agreement, including foreclosure on any such security pursuant to one or more judicial or nonjudicial sales, whether or not every aspect of any such sale is commercially reasonable, and even though such action operates to impair or extinguish any right of reimbursement or subrogation or other right or remedy of any Guarantor against Company or any security for the Guaranteed Obligations; and (vi) exercise any other rights available to it under the Credit Documents, the Hedge Agreements or the Banking Services Agreements; and

(f) this Guaranty and the obligations of Guarantors hereunder shall be valid and enforceable and shall not be subject to any reduction, limitation, impairment, discharge or termination for any reason (other than payment in full of the Guaranteed Obligations), including the occurrence of any of the following, whether or not any Guarantor shall have had notice or knowledge of any of them: (i) any failure or omission to assert or enforce an agreement or election not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy (whether arising under the Credit Documents, the Hedge Agreements or Banking Services Agreements, at law, in equity or otherwise) with respect to the Guaranteed Obligations or any agreement relating thereto, or with respect to any other guaranty of or security for the payment of the Guaranteed Obligations; (ii) any rescission, waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions (including provisions relating to events of default) hereof, any of the other Credit Documents, any of the Hedge Agreements, Banking Services Agreements or any agreement or instrument executed pursuant thereto, or of any other guaranty or security for the Guaranteed Obligations, in each case whether or not in accordance with the terms hereof or such Credit Document, such Hedge Agreement, such Banking Services Agreement or any agreement relating to such other guaranty or security; (iii) the Guaranteed Obligations, or any agreement relating thereto, at any time being found to be illegal, invalid or unenforceable in any respect; (iv) the application of payments received from any source (other than payments received pursuant to the other Credit Documents or any of the Hedge Agreements or Banking Services Agreements or from the proceeds of any security for the Guaranteed Obligations, except to the extent such security also serves as collateral for indebtedness other than the Guaranteed Obligations) to the payment of indebtedness other than the Guaranteed Obligations, even though any Beneficiary might have elected to apply such payment to any part or all of the Guaranteed Obligations; (v) any Beneficiary's consent to the change, reorganization or termination of the corporate structure or existence of Holdings or any of its Subsidiaries and to any corresponding restructuring of the Guaranteed Obligations; (vi) any failure to perfect or continue perfection of a security interest in any collateral which secures any of the Guaranteed Obligations; (vii) any defenses, set-offs or counterclaims which Company may allege or assert against any Beneficiary in respect of the Guaranteed Obligations, including failure of consideration, breach of warranty, payment, statute of frauds, statute of limitations, accord and satisfaction and usury; and (viii) any other act or thing or omission, or delay to do any other act or thing, which may or might in any manner or to any extent vary the risk of any Guarantor as an obligor in respect of the Guaranteed Obligations.

Waivers by Guarantors. Each Guarantor hereby waives, for the benefit of Beneficiaries: (a) any right to require any Beneficiary, as a condition of payment or performance by such Guarantor, to (i) proceed against Company, any other guarantor (including any other Guarantor) of the Guaranteed Obligations or any other Person, (ii) proceed against or exhaust any security held from Company, any such other guarantor or any other Person, (iii) proceed against or have resort to any balance of any deposit account or credit on the books of any Beneficiary in favor of Company or any other Person, or (iv) pursue any other remedy in the power of any Beneficiary whatsoever; (b) any defense arising by reason of the incapacity, lack of authority or any disability or other defense of Company or any other Guarantor including any defense based on or arising out of the lack of validity or the unenforceability of the Guaranteed Obligations or any agreement or instrument relating thereto or by reason of the cessation of the liability of Company or any other Guarantor from any cause other than payment in full of the Guaranteed Obligations; (c) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal; (d) any defense based upon any Beneficiary's errors or omissions in the administration of the Guaranteed Obligations, except behavior which amounts to bad faith; (e) (i) any principles or provisions of law, statutory or otherwise, which are or might be in conflict with the terms hereof and any legal or equitable discharge of such Guarantor's obligations hereunder, (ii) the benefit of any statute of limitations affecting such Guarantor's liability hereunder or the enforcement hereof, (iii) any rights to set-offs, recoupments and counterclaims, and (iv) promptness, diligence and any requirement that any Beneficiary protect, secure, perfect or insure any security interest or lien or any property subject thereto; (f) notices, demands, presentments, protests, notices of protest, notices of dishonor and notices of any action or inaction, including acceptance hereof, notices of default hereunder, the Hedge Agreements or Banking Services Agreements or any agreement or instrument related thereto, notices of any renewal, extension or modification of the Guaranteed Obligations or any agreement related thereto, notices of any extension of credit to Company and notices of any of the matters referred to in Section 7.4 and any right to consent to any thereof; and (g) any defenses or benefits that may be derived from or afforded by law which limit the liability of or exonerate guarantors or sureties, or which may conflict with the terms hereof.

Guarantors' Rights of Subrogation, Contribution, etc. Until the Guaranteed Obligations shall have been indefeasibly paid in full and the Revolving Loan Commitments shall have terminated and all Letters of Credit shall have expired or been cancelled, each Guarantor hereby waives and agrees not to assert any claim, right or remedy, direct or indirect, that such Guarantor now has or may hereafter have against Company or any other Guarantor or any of its assets in connection with this Guaranty or the performance by such Guarantor of its obligations hereunder, in each case whether such claim, right or remedy arises in equity, under contract, by statute, under common law or otherwise and including without limitation (a) any right of subrogation, reimbursement or indemnification that such Guarantor now has or may hereafter have against Company with respect to the Guaranteed Obligations, (b) any right to enforce, or to participate in, any claim, right or remedy that any Beneficiary now has or may hereafter have against Company, and (c) any benefit of, and any right to participate in, any collateral or security now or hereafter held by any Beneficiary. In addition, until the Guaranteed Obligations shall have been indefeasibly paid in full and the Revolving Loan Commitments shall have terminated and all Letters of Credit shall have expired or been cancelled, each Guarantor shall withhold

exercise of any right of contribution such Guarantor may have against any other guarantor (including any other Guarantor) of the Guaranteed Obligations, including, without limitation, any such right of contribution as contemplated by Section 7.2. Each Guarantor further agrees that, to the extent the waiver or agreement to withhold the exercise of

its rights of subrogation, reimbursement, indemnification and contribution as set forth herein is found by a court of competent jurisdiction to be void or voidable for any reason, any rights of subrogation, reimbursement or indemnification such Guarantor may have against Company or against any collateral or security, and any rights of contribution such Guarantor may have against any such other guarantor, shall be junior and subordinate to any rights any Beneficiary may have against Company, to all right, title and interest any Beneficiary may have in any such collateral or security, and to any right any Beneficiary may have against such other guarantor. If any amount shall be paid to any Guarantor on account of any such subrogation, reimbursement, indemnification or contribution rights at any time when all Guaranteed Obligations shall not have been finally and indefeasibly paid in full, such amount shall be held in trust for Administrative Agent on behalf of Beneficiaries and shall forthwith be paid over to Administrative Agent for the benefit of Beneficiaries to be credited and applied against the Guaranteed Obligations, whether matured or unmatured, in accordance with the terms hereof.

Subordination of Other Obligations. Any Indebtedness of Company or any Guarantor now or hereafter held by any Guarantor (the"**Obligee Guarantor**") is hereby subordinated in right of payment to the Guaranteed Obligations, and any such indebtedness collected or received by the Obligee Guarantor after an Event of Default has occurred and is continuing shall be held in trust for Administrative Agent on behalf of Beneficiaries and shall forthwith be paid over to Administrative Agent for the benefit of Beneficiaries to be credited and applied against the Guaranteed Obligations but without affecting, impairing or limiting in any manner the liability of the Obligee Guarantor under any other provision hereof.

Continuing Guaranty. This Guaranty is a continuing guaranty and shall remain in effect until all of the Guaranteed Obligations shall have been paid in full and the Revolving Loan Commitments shall have terminated and all Letters of Credit shall have expired or been cancelled. Each Guarantor hereby irrevocably waives any right to revoke this Guaranty as to future transactions giving rise to any Guaranteed Obligations.

Authority of Guarantors or Company. It is not necessary for any Beneficiary to inquire into the capacity or powers of any Guarantor or Company or the officers, directors or any agents acting or purporting to act on behalf of any of them.

Financial Condition of Company. Any Credit Extension may be made to Company or continued from time to time, and any Hedge Agreements or Banking Services Agreements may be entered into from time to time, in each case without notice to or authorization from any Guarantor regardless of the financial or other condition of Company at the time of any such grant or continuation or at the time such Hedge Agreement or Banking Services Agreement is entered into, as the case may be. No Beneficiary shall have any obligation to disclose or discuss with any Guarantor its assessment, or any Guarantor's

assessment, of the financial condition of Company. Each Guarantor has adequate means to obtain information from Company on a continuing basis concerning the financial condition of Company and its ability to perform its obligations under the Credit Documents the Hedge Agreements and the Banking Services Agreements, and each Guarantor assumes the responsibility for being and keeping informed of the financial condition of Company and of all circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations. Each Guarantor hereby waives and relinquishes any duty on the part of any Beneficiary to disclose any matter, fact or thing relating to the business, operations or conditions of Company now known or hereafter known by any Beneficiary.

Bankruptcy, etc. So long as any Guaranteed Obligations remain outstanding, no Guarantor shall, without the prior written consent of Administrative Agent acting pursuant to the instructions of Requisite Lenders, commence or join with any other Person in commencing any bankruptcy, reorganization or insolvency case or proceeding of or against Company or any other Guarantor. The obligations of Guarantors hereunder shall not be reduced, limited, impaired, discharged, deferred, suspended or terminated by any case or proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation or arrangement of Company or any other Guarantor or by any defense which Company or any other Guarantor may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding.

(b) Each Guarantor acknowledges and agrees that any interest on any portion of the Guaranteed Obligations which accrues after the commencement of any case or proceeding referred to in clause (a) above (or, if interest on any portion of the Guaranteed Obligations ceases to accrue by operation of law by reason of the commencement of such case or proceeding, such interest as would have accrued on such portion of the Guaranteed Obligations if such case or proceeding had not been commenced) shall be included in the Guaranteed Obligations because it is the intention of Guarantors and Beneficiaries that the Guaranteed Obligations which are guaranteed by Guarantors pursuant hereto should be determined without regard to any rule of law or order which may relieve Company of any portion of such Guaranteed Obligations. Guarantors will permit any trustee in bankruptcy, receiver, debtor in possession, assignee for the benefit of creditors or similar person to pay Administrative Agent, or allow the claim of Administrative Agent in respect of, any such interest accruing after the date on which such case or proceeding is commenced.

(c) In the event that all or any portion of the Guaranteed Obligations are paid by Company, the obligations of Guarantors hereunder shall continue and remain in full force and effect or be reinstated, as the case may be, in the event that all or any part of such payment(s) are rescinded or recovered directly or indirectly from any Beneficiary as a preference, fraudulent transfer or otherwise, and any such payments which are so rescinded or recovered shall constitute Guaranteed Obligations for all purposes hereunder.

Discharge of Guaranty Upon Sale of Guarantor. If all of the Capital Stock of any Guarantor (other than Holdings) or any of its successors in interest hereunder shall be sold or

otherwise disposed of (including by merger or consolidation) in accordance with the terms and conditions hereof, the Guaranty of such Guarantor or such successor in interest, as the case may be, hereunder shall automatically be discharged and released without any further action by any Beneficiary or any other Person effective as of the time of such Asset Sale.

SECTION 8. EVENTS OF DEFAULT; LIQUIDITY EVENTS; CURE RIGHTS

8.1 Events of Default. If any one or more of the following conditions or events shall occur:

(a) Failure to Make Payments When Due. Failure by Company to pay (i) when due any principal of any Loan, whether at stated maturity, by acceleration, by notice of voluntary prepayment, by mandatory prepayment or otherwise; (ii) when due any amount payable to Issuing Bank in reimbursement of any drawing under a Letter of Credit; or (iii) any interest on any Loan or any fee or any other amount due hereunder within five (5) days after the date due; or

(b) Default in Other Agreements. (i) Failure of any Credit Party or any of their respective Subsidiaries to pay when due any principal of or interest on or any other amount payable in respect of one or more items of Indebtedness (other than Indebtedness referred to in Section 8.1(a)) in an individual principal amount of $5,000,000 or more or with an aggregate principal amount of $10,000,000 or more, in each case beyond the grace period, if any, provided therefor; or (ii) breach or default by any Credit Party with respect to any other term of (1) one or more items of such Indebtedness or (2) any loan agreement, mortgage, indenture or other agreement relating to such item(s) of Indebtedness, or any other event or circumstance shall occur, in each case beyond the grace period, if any, provided therefor, if the effect of such breach or default or event or circumstance is to cause, or to permit the holder or holders of that Indebtedness (or a trustee on behalf of such holder or holders), to cause, that Indebtedness to become or be declared due and payable (or redeemable) prior to its stated maturity or the stated maturity of any underlying obligation, as the case may be, or to require an offer to purchase or redeem such Indebtedness be made (other than any due on sale provision with respect to any Indebtedness permitted to be repaid hereunder and which is so repaid in full); or

(c) Breach of Certain Covenants. Failure of any Credit Party to perform or comply with any term or condition contained in Sections 2.6, 2.14, 5.1(f), 5.1(g), 5.2(i), 5.14, 5.15 or 6 (and with respect to Section 6.8(a) only, subject to the expiration of the cure period provided in Section 8.3); or

(d) Breach of Representations, etc. Any representation, warranty or certification made or deemed made by any Credit Party in any Credit Document or in any statement or certificate at any time given by any Credit Party or any of its Subsidiaries in writing

pursuant hereto or thereto or in connection herewith or therewith shall be false in any material respect as of the date made or deemed made; or

(e) Other Defaults Under Credit Documents. Any Credit Party shall default in the performance of or compliance with any term contained herein or any of the other Credit Documents, other than any such term referred to in any other Section of this Section 8.1, and such default shall not have been remedied or waived within thirty (30) days after the earlier of (i) an officer of such Credit Party becoming aware of such default or (ii) receipt by Company of notice from Administrative Agent or any Lender of such default; or

(f) Involuntary Bankruptcy; Appointment of Receiver, etc.. (i) A court of competent jurisdiction shall enter a decree or order for relief in respect of Holdings or any of its Subsidiaries in an involuntary case under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect, which decree or order is not stayed; or any other similar relief shall be granted under any applicable federal or state law; or (ii) an involuntary case shall be commenced against Holdings or any of its Subsidiaries under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect; or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, liquidator, sequestrator, trustee, custodian or other officer having similar powers over Holdings or any of its Subsidiaries, or over all or a substantial part of its property, shall have been entered; or there shall have occurred the involuntary appointment of an interim receiver, trustee or other custodian of Holdings or any of its Subsidiaries for all or a substantial part of its property; or a warrant of attachment, execution or similar process shall have been issued against any substantial part of the property of Holdings or any of its Subsidiaries, and any such event described in this clause (ii) shall continue for sixty (60) days without having been dismissed, bonded or discharged; or

(g) Voluntary Bankruptcy; Appointment of Receiver, etc.. (i) Holdings or any of its Subsidiaries shall have an order for relief entered with respect to it or shall commence a voluntary case under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect, or shall consent to the entry of an order for relief in an involuntary case, or to the conversion of an involuntary case to a voluntary case, under any such law, or shall consent to the appointment of or taking possession by a receiver, trustee or other custodian for all or a substantial part of its property; or Holdings or any of its Subsidiaries shall make any assignment for the benefit of creditors; or (ii) Holdings or any of its Subsidiaries shall be unable, or shall fail generally, or shall admit in writing its inability, to pay its debts as such debts become due; or the board of directors (or similar governing body) of Holdings or any of its Subsidiaries (or any committee thereof) shall adopt any resolution or otherwise authorize any action to approve any of the actions referred to in this Section 8.1(g) or in Section 8.1(f) above; or

(h) Judgments and Attachments. Any money judgment, writ or warrant of attachment or similar process involving (i) in any individual case an amount in excess of $5,000,000 or (ii) in the aggregate at any time an amount in excess of $10,000,000 (in either case

to the extent not adequately covered by insurance as to which a solvent and unaffiliated insurance company has acknowledged coverage) shall be entered or filed against Holdings or any of its Subsidiaries or any of their respective assets and shall remain undischarged, unvacated, unbonded or unstayed for a period of sixty (60) days (or in any event later than five (5) days prior to the date of any proposed sale thereunder); or

(i) Dissolution. Any order, judgment or decree shall be entered against any Credit Party decreeing the dissolution or split up of such Credit Party; or

(j) Employee Benefit Plans. (i) There shall occur one or more ERISA Events or (ii) there shall exists any fact or circumstance that results or reasonably could be expected to result in the imposition of a Lien or security interest with respect to any Employee Benefit Plan under Section 412(n) of the Internal Revenue Code or under ERISA, in either case involving or that might reasonably be expected to involve in any individual case an amount in excess of $5,000,000 or in the aggregate at any time an amount in excess of $10,000,000; or

(k) Change of Control. A Change of Control shall occur; or

(l) Guaranties, Collateral Documents and other Credit Documents. At any time after the execution and delivery thereof, (i) the Guaranty for any reason, other than the satisfaction in full of all Obligations or upon the release of such Guaranty with respect to a Subsidiary of the Company in connection with an Asset Sale permitted hereby, shall cease to be in full force and effect (other than in accordance with its terms) or shall be declared to be null and void or any Guarantor shall repudiate its obligations thereunder, (ii) this Agreement or any Collateral Document ceases to be in full force and effect (other than by reason of a release of Collateral in accordance with the terms hereof or thereof or the satisfaction in full of the Obligations in accordance with the terms hereof) or shall be declared null and void, or Collateral Agent shall not have or shall cease to have a valid and perfected Lien in any Collateral purported to be covered by the Collateral Documents with the priority required by the relevant Collateral Document, in each case for any reason other than the failure of Collateral Agent or any Secured Party to take any action within its control, or (iii) any Credit Party shall contest the validity or enforceability of any Credit Document in writing or deny in writing that it has any further liability, including with respect to future advances by Lenders, under any Credit Document to which it is a party;

THEN, (1) upon the occurrence of any Event of Default described in Section 8.1(f) or 8.1(g), automatically, and (2) upon the occurrence of any other Event of Default, upon notice to Company by Administrative Agent (which notice shall be given by Administrative Agent upon the request of the Requisite Lenders), (A) the Revolving Loan Commitments, if any, of each Lender having such Revolving Loan Commitments and the obligation of Issuing Bank to issue any Letter of Credit shall immediately terminate; (B) each of the following shall immediately

become due and payable, in each case without presentment, demand, protest or other requirements of any kind, all of which are hereby expressly waived by each Credit Party: (I) the unpaid principal amount of and accrued interest on the Loans, (II) an amount equal to the maximum amount that may at any time be drawn under all Letters of Credit then outstanding (regardless of whether any beneficiary under any such Letter of Credit shall have presented, or shall be entitled at such time to present, the drafts or other documents or certificates required to draw under such Letters of Credit), and (III) all other Obligations; provided, the foregoing shall not affect in any way the obligations of Lenders under Section 2.2(b)(iv) or Section 2.3(e); (C) Administrative Agent may cause Collateral Agent to enforce any and all Liens and security interests created pursuant to Collateral Documents; and (D) Administrative Agent shall direct Company to pay (and Company hereby agrees upon receipt of such notice, or upon the occurrence of any Event of Default specified in Section 8.1(f) and (g) to pay) to Administrative Agent such additional amounts of cash, to be held as security for Company's reimbursement Obligations in respect of Letters of Credit then outstanding, equal to the Letter of Credit Usage at such time.

8.2 Liquidity Event; Sponsor's Right to Cure

Upon the occurrence of a Liquidity Event, Holdings may, within ten (10) days of the date of such occurrence, deliver a fully executed notice (a "**Liquidity Event Cure Notice**") to Administrative Agent and Collateral Agent of its intention to issue Permitted Cure Securities for cash or otherwise receive cash contributions to the capital of Holdings, and, in each case, to contribute any such cash to the capital of the Borrowers (collectively, the "**Liquidity Event Cure Right**"). Notwithstanding anything herein to the contrary, a Liquidity Event Cure Notice may be delivered no more than two times in any 12 month period. The Liquidity Event Cure Notice shall (i) state the date on which such cash is to be contributed to the capital of the Borrowers (which date shall be no later than (A) the 10th day subsequent to the occurrence of such Liquidity Event or (B) if such Liquidity Event occurred as direct result of the establishment of a Reserve or credit limit (pursuant to Section 2.11(a)(xix)(B)) by Collateral Agent or Administrative Agent, as applicable, for which Borrower Representative did not have at least 5 Business Days prior notice, the 15th day subsequent to the occurrence of such Liquidity Event), (ii) state the amount of such cash to be contributed to the capital of the Borrowers (the "**Liquidity Event Cure Amount**") and (iii) be irrevocable. Upon receipt of the Liquidity Event Cure Amount, Holdings shall contribute such amount to the capital of Borrowers irrespective of the amount, if any, of Excess Availability at such time. Upon receipt by Borrowers of such Liquidity Event Cure Amount pursuant to the exercise by Holdings of such Liquidity Event Cure Right, Excess Availability shall be recalculated and if, after giving effect to the foregoing recalculations the Borrower shall have Excess Availability of $6.0 million or more, then such Liquidity Event shall be deemed not to have occurred (a "**Liquidity Event Cure**") and any Account Control Event that was triggered thereby shall cease to exist;provided, however, that if after giving effect to the foregoing recalculations, the Borrower shall not have Excess Availability of $6.0 million or more, then a new Liquidity Event shall be deemed to have occurred. If Holdings delivers a Liquidity Event Cure Notice with respect to a Liquidity Event and fails to timely contribute the Liquidity Event Cure Amount specified in such Liquidity Event Notice, then such Liquidity Event shall not be cured and if Borrowers are not in compliance with

the Financial Performance Covenant, then Holdings shall not be entitled to exercise any Financial Performance Covenant Cure Right related to such failure (notwithstanding anything to the contrary in Section 8.3).

8.3 Financial Performance Covenant; Sponsors Right to Cure

Anything to the contrary contained in Section 8.1 notwithstanding, in the event that the Borrowers fail (or, but for the operation of this Section 8.3, would fail) to comply with the requirements of the covenant set forth in Section 6.8(a) (the "**Financial Performance Covenant**"), Holdings may (subject to Section 8.2), on the date that the Fixed Charge Coverage Compliance Certificate relating to such failure is delivered, deliver a fully executed notice (a "**Financial Performance Covenant Cure Notice**") to Administrative Agent and Collateral Agent of its intention to issue Permitted Cure Securities for cash or otherwise receive cash contributions to the capital of Holdings, and, in each case, to contribute any such cash to the capital of the Borrowers (collectively, the "**Financial Performance Covenant Cure Right**"). Notwithstanding anything herein to the contrary, a Financial Performance Covenant Cure Notice may not be delivered if as a result more than six (6) Financial Performance Covenant Cure Notices would be delivered in the twelve-month period ending on the last day of the calendar month in which the Financial Performance Covenant Cure Notice is delivered (the "**Current Twelve-Month Period**"). The Financial Performance Covenant Cure Notice shall (i) state the date on which such cash is to be contributed to the capital of the Borrowers (which date shall be no later than the 10th day subsequent to the date the certificate calculating the Fixed Charge Coverage Ratio is required to be delivered pursuant to Section 5.1(l) (ii) state the amount of such cash to be contributed to the capital of the Borrowers (the "**Financial Performance Cure Covenant Amount**") and (iii) be irrevocable. Upon receipt of the Financial Performance Covenant Cure Amount, Holdings shall contribute such amount to the capital of Borrowers. Upon receipt by Borrowers of such Financial Performance Covenant Cure Amount pursuant to the exercise by Holdings of such Financial Performance Covenant Cure Right, Consolidated Adjusted EBITDA shall be recalculated and if, after giving effect to the foregoing recalculations, the Borrowers would have been in compliance with the requirements of the Financial Performance Covenant, then the Borrowers shall be deemed to have satisfied the requirements of the Financial Performance Covenant as of the relevant date of determination with the same effect as though there had been no failure to comply therewith at such date, and the applicable breach or default of the Financial Performance Covenant that had occurred shall be deemed cured for the purposes of this Agreement. For purposes of this Section 8.3(a), the amount of the Financial Performance Covenant Cure Amount that shall count towards Consolidated Adjusted EBITDA shall be no greater than the amount required for purposes of complying with the Financial Performance Covenant. For the avoidance of doubt, if, on any relevant date during a Liquidity Event the Borrowers are not in compliance with the Financial Performance Covenant and Holdings (i) fails to deliver a Financial Performance Covenant Cure Notice on the date that the Fixed Charge Coverage Compliance Certificate relating to such failure is delivered or (ii) has delivered a Financial Performance Cure Notice six (6) times in the Current Twelve-Month

Period, an Event of Default shall immediately occur. The foregoing notwithstanding, if the event giving rise to the breach or default (or potential breach or default) of the Financial Performance Covenant is the occurrence of a Liquidity Event and a Liquidity Event Cure occurs with respect to such Liquidity Event, such Liquidity Event Cure shall also cure the breach or default (or potential breach or default) of the Financial Performance Cure with no further action necessary by Holdings or Borrowers.

SECTION 9. AGENTS

9.1 Appointment of Agents. Credit Suisse is hereby appointed Administrative Agent hereunder and under the other Credit Documents and each Lender hereby authorizes Administrative Agent to act as its agent in such capacity in accordance with the terms hereof and the other Credit Documents. JPMorgan Chase Bank, N.A. is hereby appointed Collateral Agent hereunder and under the other Credit Documents and each Lender hereby authorizes Collateral Agent to act as its agent in such capacity in accordance with the terms hereof and the other Credit Documents. JPMorgan Chase Bank, N.A. is hereby appointed Syndication Agent hereunder, and each Lender hereby authorizes Syndication Agent to act as its agent in accordance with the terms hereof and the other Credit Documents. Wachovia Capital Finance Corporation (Central) is hereby appointed Documentation Agent hereunder, and each Lender hereby authorizes Documentation Agent to act as its agent in accordance with the terms hereof and the other Credit Documents. Each Agent hereby agrees to act upon the express conditions contained herein and the other Credit Documents, as applicable. The provisions of this Section 9 are solely for the benefit of Agents and Lenders and no Credit Party shall have any rights as a third party beneficiary of any of the provisions thereof. In performing its functions and duties hereunder, each Agent shall act solely as an agent of Lenders and does not assume and shall not be deemed to have assumed any obligation towards or relationship of agency or trust with or for Holdings or any of its Subsidiaries.

9.2 Powers and Duties. Each Lender irrevocably authorizes each Agent to take such action on such Lender's behalf and to exercise such powers, rights and remedies hereunder and under the other Credit Documents as are specifically delegated or granted to such Agent by the terms hereof and thereof, together with such powers, rights and remedies as are reasonably incidental thereto. Each Agent shall have only those duties and responsibilities that are expressly specified herein and the other Credit Documents. Each Lender irrevocably authorizes each of the Administrative Agent and the Collateral Agent to execute and deliver the Intercreditor Agreement and agrees to be bound by the provisions therein. Each Agent may perform any and all of their duties and exercise their rights and powers by or through any one or more sub-agents appointed by such Agent. Each Agent and any such sub-agent may perform any and all its duties and exercise its rights and powers through their respective Affiliates, and the respective directors, officers, employees, agents and advisors of such Agent and such Agent's Affiliates. The exculpatory provisions of the Credit Documents shall apply to any such sub-agent and to the Affiliates, directors, officers, employees, agents and advisors of such Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Agent. No Agent shall have, by

reason hereof or any of the other Credit Documents, a fiduciary relationship in respect of any Lender; and nothing herein or any of the other Credit Documents, expressed or implied, is intended to or shall be so construed as to impose upon any Agent any obligations in respect hereof or any of the other Credit Documents except as expressly set forth herein or therein.

9.3 General Immunity.

(a) No Responsibility for Certain Matters. No Agent shall be responsible to any Lender for the execution, effectiveness, genuineness, validity, enforceability, collectability or sufficiency hereof or any other Credit Document or for any representations, warranties, recitals or statements made herein or therein or made in any written or oral statements or in any financial or other statements, instruments, reports or certificates or any other documents furnished or made by any Agent to Lenders or by or on behalf of any Credit Party to any Agent or any Lender in connection with the Credit Documents and the transactions contemplated thereby or for the financial condition or business affairs of any Credit Party or any other Person liable for the payment of any Obligations, nor shall any Agent be required to ascertain or inquire as to the performance or observance of any of the terms, conditions, provisions, covenants or agreements contained in any of the Credit Documents or as to the use of the proceeds of the Loans or as to the existence or possible existence of any Event of Default or Default or to make any disclosures with respect to the foregoing. No Agent shall be deemed to have knowledge of any Default or Event of Default unless and until written notice thereof is given to such Agent by the Borrower Representative or a Lender. Anything contained herein to the contrary notwithstanding, Administrative Agent shall not have any liability arising from confirmations of the amount of outstanding Loans or the Letter of Credit Usage or the component amounts thereof.

(b) Exculpatory Provisions. No Agent nor any of its officers, partners, directors, employees or agents shall be liable to Lenders for any action taken or omitted by any Agent under or in connection with any of the Credit Documents except to the extent caused by such Agent's gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction. Each Agent shall be entitled to refrain from any act or the taking of any action (including the failure to take an action) in connection herewith or any of the other Credit Documents or from the exercise of any power, discretion or authority vested in it hereunder or thereunder unless and until such Agent shall have received instructions in respect thereof from Requisite Lenders (or such other Lenders as may be required to give such instructions under Section 10.5) and, upon receipt of such instructions from Requisite Lenders (or such other Lenders, as the case may be), such Agent shall be entitled to act or (where so instructed) refrain from acting, or to exercise such power, discretion or authority, in accordance with such instructions. Without prejudice to the generality of the foregoing, (i) each Agent shall be entitled to rely, and shall be fully protected in relying, upon any communication, instrument or document believed by it to be genuine and correct and to have been signed or sent by the proper Person or Persons, and shall be entitled to rely and shall be protected in relying on opinions and judgments of attorneys (who may be attorneys for Holdings and its Subsidiaries), accountants, experts and other professional advisors selected by it; and (ii) no Lender shall have

any right of action whatsoever against any Agent as a result of such Agent acting or (where so instructed) refraining from acting hereunder or any of the other Credit Documents in accordance with the instructions of Requisite Lenders (or such other Lenders as may be required to give such instructions under Section 10.5). Each Agent also may rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person, and shall not incur any liability for relying thereon.

9.4 Agents Entitled to Act as Lender. The agency hereby created shall in no way impair or affect any of the rights and powers of, or impose any duties or obligations upon, any Agent in its individual capacity as a Lender hereunder. With respect to its participation in the Loans and the Letters of Credit, each Agent shall have the same rights and powers hereunder as any other Lender and may exercise the same as if it were not performing the duties and functions delegated to it hereunder, and the term "Lender" shall, unless the context clearly otherwise indicates, include each Agent in its individual capacity. Any Agent and its Affiliates may accept deposits from, lend money to, own securities of, and generally engage in any kind of banking, trust, financial advisory or other business with Holdings or any of its Affiliates as if it were not performing the duties specified herein, and may accept fees and other consideration from Company for services in connection herewith and otherwise without having to account for the same to Lenders.

9.5 Lenders' Representations, Warranties and Acknowledgment.

(a) Each Lender represents and warrants that it has made its own independent investigation of the financial condition and affairs of Holdings and its Subsidiaries in connection with Credit Extensions hereunder and that it has made and shall continue to make its own appraisal of the creditworthiness of Holdings and its Subsidiaries. No Agent shall have any duty or responsibility, either initially or on a continuing basis, to make any such investigation or any such appraisal on behalf of Lenders or to provide any Lender with any credit or other information with respect thereto, whether coming into its possession before the making of the Loans or at any time or times thereafter, and no Agent shall have any responsibility with respect to the accuracy of or the completeness of any information provided to Lenders.

(b) Each Lender, by delivering its signature page to this Agreement shall be deemed to have acknowledged receipt of, and consented to and approved, each Credit Document and each other document required to be approved by any Agent, Requisite Lenders or Lenders, as applicable on the Closing Date.

9.6 Right to Indemnity. Each Lender, in proportion to its Pro Rata Share, severally agrees to indemnify each Agent, to the extent that such Agent shall not have been reimbursed by any Credit Party, for and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses (including counsel fees and disbursements) or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against such Agent in exercising its powers, rights and remedies or performing its duties

hereunder or under the other Credit Documents or otherwise in its capacity as such Agent in any way relating to or arising out of this Agreement or the other Credit Documents; provided, no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from such Agent's gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction. If any indemnity furnished to any Agent for any purpose shall, in the opinion of such Agent, be insufficient or become impaired, such Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished; provided, in no event shall this sentence require any Lender to indemnify any Agent against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement in excess of such Lender's Pro Rata Share thereof; and provided further, this sentence shall not be deemed to require any Lender to indemnify any Agent against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement described in the proviso in the immediately preceding sentence.

9.7 Successor Administrative Agent and Swing Line Lender. Administrative Agent may resign at any time by giving thirty (30) days' prior written notice thereof to Lenders and Borrower Representative. Upon any such notice of resignation, Requisite Lenders shall have the right, upon five (5) Business Days' notice to Borrower Representative, to appoint a successor Administrative Agent. If no successor shall have been so appointed by the Requisite Lenders and shall have accepted such appointment within thirty (30) days after the resigning Administrative Agent gives notice of its resignation, then the resigning Administrative Agent may, on behalf of Agents, Lenders and Issuing Banks, appoint a successor Administrative Agent. Upon the acceptance of any appointment as Administrative Agent hereunder by a successor Administrative Agent, that successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent and the retiring Administrative Agent shall promptly (i) transfer to such successor Administrative Agent all sums, Securities and other items of Collateral held under the Collateral Documents, together with all records and other documents necessary or appropriate in connection with the performance of the duties of the successor Administrative Agent under the Credit Documents, and (ii) execute and deliver to such successor Administrative Agent such amendments to financing statements, and take such other actions, as may be necessary or appropriate in connection with the assignment to such successor Administrative Agent of the security interests created under the Collateral Documents,

whereupon such retiring Administrative Agent shall be discharged from its duties and obligations hereunder. After any retiring Administrative Agent's resignation hereunder as Administrative Agent, the provisions of this Section 9 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent hereunder. Any resignation of Administrative Agent pursuant to this Section shall also constitute the resignation of Credit Suisse or its successor as Swing Line Lender and Issuing Bank, and any successor Administrative Agent appointed pursuant to this Section shall, upon its acceptance of such appointment, become the successor Swing Line Lender and Issuing Bank for all purposes hereunder. In such event (a) Borrower Representative shall prepay any outstanding Swing Line Loans made by the retiring Administrative Agent in its capacity as Swing Line Lender, (b) upon such prepayment, the retiring Administrative Agent and Swing Line Lender shall surrender any Swing Line Note held by it to Borrower Representative for cancellation, and (c) Borrower Representative shall issue, if so requested by successor

Administrative Agent and Swing Line Loan Lender, a new Swing Line Note to the successor Administrative Agent and Swing Line Lender, in the principal amount of the Swing Line Loan Sublimit then in effect and with other appropriate insertions.

9.8 Collateral Documents and Guaranty.

(a) Agents under Collateral Documents and Guaranty. Each Lender hereby further authorizes Administrative Agent or Collateral Agent, as applicable, on behalf of and for the benefit of Lenders, to be the agent for and representative of Lenders with respect to the Guaranty, the Collateral and the Collateral Documents. Subject to Section 10.5, without further written consent or authorization from Lenders, Administrative Agent or Collateral Agent, as applicable may execute any documents or instruments necessary to (i) release any Lien encumbering any item of Collateral that is the subject of a sale or other disposition of assets permitted hereby or to which Requisite Lenders (or such other Lenders as may be required to give such consent under Section 10.5) have otherwise consented or (ii) release any Guarantor from the Guaranty pursuant to Section 7.12 or with respect to which Requisite Lenders (or such other Lenders as may be required to give such consent under Section 10.5) have otherwise consented.

(b) Right to Realize on Collateral and Enforce Guaranty. Anything contained in any of the Credit Documents to the contrary notwithstanding, Company, Administrative Agent, Collateral Agent and each Lender hereby agree that (i) no Lender shall have any right individually to realize upon any of the Collateral or to enforce the Guaranty, it being understood and agreed that all powers, rights and remedies hereunder may be exercised solely by Administrative Agent, on behalf of Lenders in accordance with the terms hereof and all powers, rights and remedies under the Collateral Documents may be exercised solely by Collateral Agent, and (ii) in the event of a foreclosure by Collateral Agent on any of the Collateral pursuant to a public or private sale, Collateral Agent or any Lender may be the purchaser of any or all of such Collateral at any such sale and Collateral Agent, as agent for and representative of Secured Parties (but not any Lender or Lenders in its or their respective individual capacities unless Requisite Lenders shall otherwise agree in writing) shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations as a credit on account of the purchase price for any collateral payable by Collateral Agent at such sale.

9.9 Overadvances

. Notwithstanding anything to the contrary in this Agreement, the Administrative Agent, Issuing Bank and Swingline Lender, as applicable, may make, on behalf of the Lenders, Revolving Loans, or issue Letters of Credit to the Borrowers, in each case, notwithstanding its knowledge that such Revolving Loans, Swingline Loans, or Letters of Credit would either (i) cause the aggregate amount of the Revolving Exposure to exceed the Borrowing Base or (ii) be made or issued when one or more of the other conditions precedent to the making of Loans hereunder cannot be satisfied (each an "**Overadvance**" and collectively, the "**Overadvances**"), if the Administrative Agent deems it necessary or advisable in its discretion to do so, provided,

that: the total principal amount of the Overadvances shall not exceed an amount equal to $3.0 million outstanding at any time and shall not cause the Revolving Exposure to exceed the Revolving Loan Commitments of all of the Lenders or the Revolving Exposure of a Lender to exceed such Lender's Revolving Loan Commitment. Borrowers agree that all Overadvances will be repayable on demand by the Administrative Agent, and will in any event be repaid within sixty (60) days. Overadvances shall accrue interest at the rate provided for in Section 2.7(d). Each Lender shall be obligated to pay Administrative Agent the amount of its Pro Rata Share of any such Overadvance provided, that such Administrative Agent is acting in accordance with the terms of this Section 9.9.]

SECTION 10. MISCELLANEOUS

10.1 Notices. Unless otherwise specifically provided herein, any notice or other communication herein required or permitted to be given to a Credit Party, Collateral Agent, Administrative Agent, Swing Line Lender, Issuing Bank, Syndication Agent or Documentation Agent, shall be sent to such Person's address as set forth on Appendix B or in the other relevant Credit Document, and in the case of any Lender, the address as indicated on Appendix B or otherwise indicated to Administrative Agent in writing. Each notice hereunder shall be in writing and may be personally served, telexed or sent by telefacsimile or United States certified or registered mail or courier service and shall be deemed to have been given when delivered in person or by courier service and signed for against receipt thereof, upon receipt of telefacsimile or telex, or three (3) Business Days after depositing it in the United States mail with postage prepaid and properly addressed; provided, no notice to any Agent shall be effective until received by such Agent. As agreed to among Holdings, the Borrower, the Administrative Agent and the applicable Lenders from time to time, notices and other communications may also be delivered by e-mail to the e-mail address of a representative of the applicable Person provided from time to time by such Person.

The Borrower hereby agrees, unless directed otherwise by the Administrative Agent or unless the electronic mail address referred to below has not been provided by the Administrative Agent to the Borrower, that it will, or will cause its Subsidiaries to, provide to the Administrative Agent all information, documents and other materials that it is obligated to furnish to the Administrative Agent pursuant to the Credit Documents or to the Lenders under Article 5, including all notices, requests, financial statements, financial and other reports, certificates and other information materials, but excluding any such communication that (i) relates to the payment of any principal or other amount due under this Agreement prior to the scheduled date thereof, (ii) provides notice of any Default or Event of Default under this Agreement or any other Credit Document or (iii) is or relates to a Funding Notice, a Conversion/Continuation Notice, an Issuance Notice or a notice requesting the issuance, amendment, extension or renewal of a Letter of Credit pursuant to Section 2.3, or is required to be delivered to satisfy any condition precedent to the effectiveness of this Agreement and/or any other extension of credit hereunder (all such non-excluded communications being referred to herein collectively as "***Communications***"), by transmitting the Communications in an electronic/soft medium that is properly identified in a format acceptable to the Administrative Agent to an electronic mail address as directed by the Administrative Agent. In addition, the Borrower agrees, and agrees to cause its Subsidiaries, to

continue to provide the Communications to the Administrative Agent or the Lenders, as the case may be, in the manner specified in the Credit Documents but only to the extent requested by the Administrative Agent.

The Borrower hereby acknowledges that (a) the Administrative Agent will make available to the Lenders and the Issuing Bank materials and/or information provided by or on behalf of the Borrower hereunder (collectively, the "***Borrower Materials***") by posting the Borrower Materials on Intralinks or another similar electronic system (the

"***Platform***") and (b) certain of the Lenders may be "public-side" Lenders (i.e., Lenders that do not wish to receive material non-public information with respect to the Borrower or its securities) (each, a "***Public Lender***"). The Borrower hereby agrees that (w) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Borrower shall be deemed to have authorized the Administrative Agent and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to the Borrower or its securities for purposes of United States federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute confidential information, they shall be treated as set forth in Section 10.17); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated as "Public Investor;" and (z) the Administrative Agent shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not marked as "Public Investor." Notwithstanding the foregoing, the following Borrower Materials shall be marked "PUBLIC", unless the Borrower notifies the Administrative Agent promptly that any such document contains material non-public information: (1) the Credit Documents and (2) notification of changes in the terms of the Credit Documents.

Each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable law, including United States Federal and state securities laws, to make reference to Communications that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to the Borrower or its securities for purposes of United States Federal or state securities laws.

THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE". NEITHER THE ADMINISTRATIVE AGENT NOR ANY OF ITS RELATED PARTIES WARRANTS THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS OR THE ADEQUACY OF THE PLATFORM AND EACH EXPRESSLY DISCLAIMS LIABILITY FOR ERRORS OR OMISSIONS IN THE COMMUNICATIONS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS IS MADE BY THE ADMINISTRATIVE AGENT OR ANY OF ITS RELATED PARTIES IN CONNECTION WITH THE COMMUNICATIONS OR THE PLATFORM. IN NO EVENT SHALL THE ADMINISTRATIVE AGENT OR ANY OF ITS RELATED PARTIES HAVE

ANY LIABILITY TO ANY CREDIT PARTY, ANY LENDER OR ANY OTHER PERSON FOR DAMAGES OF ANY KIND, WHETHER OR NOT BASED ON STRICT LIABILITY AND INCLUDING DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF ANY CREDIT PARTY'S OR THE ADMINISTRATIVE AGENT'S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET, EXCEPT TO THE EXTENT THE LIABILITY OF ANY SUCH PERSON IS FOUND IN A FINAL RULING BY A COURT OF COMPETENT JURISDICTION TO HAVE RESULTED PRIMARILY FROM SUCH PERSON'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

The Administrative Agent agrees that the receipt of the Communications by the Administrative Agent at its e-mail address set forth above shall constitute effective delivery of the Communications to the Administrative Agent for purposes of the Credit Documents. Each Lender agrees that receipt of notice to it (as provided in the next sentence) specifying that the Communications have been posted to the Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Credit Documents. Each Lender agrees to notify the Administrative Agent in writing (including by electronic communication) from time to time of such Lender's e-mail address to which the foregoing notice may be sent by electronic transmission and that the foregoing notice may be sent to such e-mail address.

10.2 Expenses. Whether or not the transactions contemplated hereby shall be consummated, Borrower Representative agrees to pay promptly (a) all the actual costs and expenses incurred by Arranger and Administrative Agent and Collateral Agent in connection with the preparation of the Credit Documents and any consents, amendments, waivers or other modifications thereto; (b) all the costs of furnishing all opinions by counsel for Borrower Representative and the other Credit Parties; (c) the reasonable fees, expenses and disbursements of counsel to Arranger and Administrative Agent and Collateral Agent in connection with the negotiation, preparation, execution and administration of the Credit Documents and any consents, amendments, waivers or other modifications thereto and any other documents or matters requested by Borrower Representative; (d) all the actual costs and expenses of creating and perfecting Liens in favor of Collateral Agent, for the benefit of Lenders and Issuing Bank pursuant hereto, including filing and recording fees, expenses and taxes, stamp or documentary taxes, search fees, title insurance premiums and reasonable fees, expenses and disbursements of counsel to each Agent and Arranger and of counsel providing any opinions that Arranger, any Agent or Requisite Lenders may request in respect of the Collateral or the Liens created pursuant to the Collateral Documents; (e) all the actual and reasonable out-of-pocket costs and fees, expenses and disbursements of any auditors, accountants, consultants or appraisers retained by Administrative Agent or Collateral Agent in connection with the Credit Documents and identified to Borrower Representative prior to their retention; (f) all the actual costs and expenses (including the fees, expenses and disbursements of any appraisers, consultants, advisors and agents employed or retained by Collateral Agent and its counsel) in connection with the custody or preservation of any of the Collateral; (g) all other actual and reasonable out-of-pocket costs and expenses incurred by Arranger and each Agent in connection with the syndication of the Loans and Commitments and the negotiation, preparation and execution of the Credit Documents and any consents, amendments, waivers or other modifications thereto and the transactions

contemplated thereby; and (h) after the occurrence of a Default or an Event of Default, all costs and expenses, including reasonable attorneys' fees (including allocated costs of internal counsel) and costs of settlement, incurred by Arranger, each and any Agent or each and any Lender and Issuing Bank in enforcing any Obligations of or in collecting any payments due from any Credit Party hereunder or under the other Credit Documents by reason of such Default or Event of Default (including in connection with the sale of, collection from, or other realization upon any of the Collateral or the enforcement of the Guaranty) or in connection with any refinancing or restructuring of the credit arrangements provided hereunder in the nature of a "work-out" or pursuant to any insolvency or bankruptcy cases or proceedings.

10.3 Indemnity.

(a) In addition to the payment of expenses pursuant to Section 10.2, whether or not the transactions contemplated hereby shall be consummated, each Credit Party agrees to defend (subject to Indemnitees' selection of counsel), indemnify, pay and hold harmless, Arranger, each Agent, each Lender and Issuing Bank and the officers, partners, directors, trustees, employees, agents (including advisors) and Affiliates of Arranger, each Agent, each Lender and Issuing Bank (each, an "**Indemnitee**"), from and against any and all Indemnified Liabilities; provided, no Credit Party shall have any obligation to any Indemnitee hereunder with respect to any Indemnified Liabilities to the extent such Indemnified Liabilities arise from the gross negligence or willful misconduct of that Indemnitee as determined by a final non-appealable judgment of a court of competent jurisdiction. As used herein, "**Indemnified Liabilities**" means, collectively, any and all liabilities, obligations, losses, damages (including natural resource damages), penalties, actions, judgments, suits, claims (including Environmental Claims), costs (including the costs of any investigation, study, sampling, testing, abatement, cleanup, removal, remediation or other response action necessary to remove, remediate, clean up or abate any Hazardous Materials Activity), expenses and disbursements of any kind or nature whatsoever (including the reasonable fees and disbursements of counsel for Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened by any Person, whether or not any such Indemnitee shall be designated as a party or a potential party thereto, and any fees or expenses incurred by Indemnitees in enforcing this indemnity), whether direct, indirect or consequential and whether based on any federal, state or foreign laws, statutes, rules or regulations (including securities and commercial laws, statutes, rules or regulations and Environmental Laws), on common law or equitable cause or on contract or otherwise, that may be imposed on, incurred by, or asserted against any such Indemnitee, in any manner relating to or arising out of this Agreement or the other Credit Documents the Related Agreements or the transactions contemplated hereby or thereby (including the Lenders' agreement to make Credit Extensions or the use or intended use of the proceeds thereof, or any enforcement of any of the Credit Documents (including any sale of, collection from, or other realization upon any of the Collateral or the enforcement of the Guaranty)).

(b) To the extent that the undertakings to defend, indemnify, pay and hold harmless set forth in this Section 10.3 may be unenforceable in whole or in part because they are violative of any law or public policy, the applicable Credit Party shall contribute the maximum

portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by Indemnitees or any of them.

(c) To the extent permitted by applicable law, each of Holdings and Company, and its Subsidiaries, shall not assert, and each of Holdings and Company, and its Subsidiaries, hereby waives, any claim against Lenders, Issuing Bank, Agents and Arranger, and their respective Affiliates, directors, employees, attorneys or agents, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) (whether or not the claim therefor is based on contract, tort or duty imposed by any applicable legal requirement) arising out of, in connection with, arising out of, as a result of, or in any way related to, this Agreement or any Credit Document or any agreement or instrument contemplated hereby or referred to herein, the transactions contemplated hereby, any Loan or the use of the proceeds thereof or any act or omission or event occurring in connection therewith, and each of Holdings and Company, and its Subsidiaries, hereby waives, releases and agrees not to sue upon any such claim or any such damages, whether or not accrued and whether or not known or suspected to exist in its favor.

10.4 Set-Off. In addition to any rights now or hereafter granted under applicable law and not by way of limitation of any such rights, upon the occurrence and during the continuance of any Event of Default each Agent, each Lender and each of their respective Affiliates is hereby authorized by each Credit Party at any time or from time to time, without notice to any Credit Party or to any other Person (other than Administrative Agent), any such notice being hereby expressly waived, to set off and to appropriate and to apply any and all deposits (general or special, including Indebtedness evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts) and any other Indebtedness at any time held or owing by such Agent, Lender or Affiliate to or for the credit or the account of any Credit Party against and on account of the obligations and liabilities of any Credit Party to such Agent, Lender or Affiliate hereunder, the Letters of Credit and participations therein and under the other Credit Documents, including all claims of any nature or description arising out of or connected hereto, the Letters of Credit and participations therein or with any other Credit Document, irrespective of whether or not (a) such Lender shall have made any demand hereunder or (b) the principal of or the interest on the Loans or any amounts in respect of the Letters of Credit or any other amounts due hereunder shall have become due and payable pursuant to Section 2 and although such obligations and liabilities, or any of them, may be contingent or unmatured.

10.5 Amendments and Waivers.

(a) Requisite Lenders' Consent. Subject to Section 10.5(b) and 10.5(c), no amendment, modification, termination or waiver of any provision of the Credit Documents, or consent to any departure by any Credit Party therefrom, shall in any event be effective without the written concurrence of the Requisite Lenders.

(b) Affected Lenders' Consent. Without the written consent of each Lender (other than a Defaulting Lender) that would be affected thereby, no amendment, modification, termination, or consent shall be effective if the effect thereof would:

(i) extend the scheduled final maturity of any Loan or Note;

(ii) waive, reduce or postpone any scheduled repayment (but not prepayment);

(iii) extend the stated expiration date of any Letter of Credit beyond the Revolving Loan Commitment Termination Date;

(iv) reduce the rate of interest on any Loan (other than any waiver of any increase in the interest rate applicable to any Loan pursuant to Section 2.10) or any fee payable hereunder;

(v) extend the time for payment of any such interest or fees;

(vi) reduce or forgive the principal amount of any Loan or any reimbursement obligation in respect of any Letter of Credit;

(vii) amend, modify, terminate or waive any provision of this Section 10.5(b), Section 10.5(c) or Section 2.16 hereof, or Section 7.2 of the Pledge and Security Agreement;

(viii) amend the definition of "**Requisite Lenders**" or "**Pro Rata Share**";

(ix) release all or substantially all of the Collateral or all or substantially all of the Guarantors from the Guaranty except as expressly provided in the Credit Documents; or

(x) consent to the assignment or transfer by any Credit Party of any of its rights and obligations under any Credit Document.

(c) Other Consents. No amendment, modification, termination or waiver of any provision of the Credit Documents, or consent to any departure by any Credit Party therefrom, shall:

(i) increase any Revolving Loan Commitment of any Lender over the amount thereof then in effect without the consent of such Lender; provided, no amendment, modification or waiver of any condition precedent, covenant, Default or Event of Default shall constitute an increase in any Revolving Loan Commitment of any Lender;

(ii) amend, modify, terminate or waive any provision hereof relating to the Swing Line Sublimit or the Swing Line Loans without the consent of Swing Line Lender;

(iii) amend, modify, terminate or waive any obligation of Lenders with Revolving Loan Commitments relating to the purchase of participations in Letters of Credit as provided in Section 2.4(e) without the written consent of Administrative Agent and of Issuing Bank;

(iv) amend the definition of "Borrowing Base" or any definition used therein, or Section 2.11 hereof, without the written concurrence of Lenders having or holding Revolving Exposure and representing more than 66-2/3rds percent of the sum of the aggregate Revolving Exposure of all

Lenders; provided, that, the foregoing shall not (A) limit the discretion of the Administrative Agent or Collateral Agent to change, establish or eliminate any Reserves without the consent of any Lenders or (B) affect any other matter that this Agreement leaves to the discretion of the Administrative Agent and/or the Collateral Agent; or

(v) amend, modify, terminate or waive any provision of Section 9 as the same applies to any Agent, or any other provision hereof as the same applies to the rights or obligations of any Agent, in each case without the consent of such Agent.

(d) Execution of Amendments, etc. Administrative Agent may, but shall have no obligation to, with the written concurrence of any Lender, execute amendments, modifications, waivers or consents on behalf of such Lender. Any waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. No notice to or demand on any Credit Party in any case shall entitle any Credit Party to any other or further notice or demand in similar or other circumstances. Any amendment, modification, termination, waiver or consent effected in accordance with this Section 10.5 shall be binding upon each Lender at the time outstanding, each future Lender and, if signed by a Credit Party, on such Credit Party.

10.6 Successors and Assigns; Participations.

(a) Generally. This Agreement shall be binding upon the parties hereto and their respective successors and assigns and shall inure to the benefit of the parties hereto and the successors and assigns of Lenders. No Credit Party's rights or obligations hereunder nor any interest therein may be assigned or delegated by any Credit Party without the prior written consent of all Lenders. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby and, to the extent expressly contemplated hereby, Affiliates of each of the Agents and Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Register. Borrower Representative, Administrative Agent and Lenders shall deem and treat the Persons listed as Lenders in the Register as the holders and owners of the corresponding Commitments and Loans listed therein for all purposes hereof, and no assignment or transfer of any such Commitment or Loan shall be effective, in each case, unless and until an Assignment Agreement effecting the assignment or transfer thereof shall have been delivered to and accepted by Administrative Agent and recorded in the Register as provided in Section 10.6(f). Prior to such recordation, all amounts owed with respect to the applicable Commitment or Loan shall be owed to the Lender listed in the Register as the owner thereof, and any request, authority or consent of any Person who, at the time of making such request or giving such authority or consent, is listed in the Register as a Lender shall be conclusive and binding on any subsequent holder, assignee or transferee of the corresponding Commitments or Loans.

(c) Right to Assign. Each Lender shall have the right at any time to sell, assign or transfer all or a portion of its rights and obligations under this Agreement, including, without limitation, all or a portion of its Commitment or Loans owing to it or other Obligation (provided, however, that each such assignment shall be of a uniform, and not varying, percentage of all rights and obligations under and in respect of any Loan and any related Commitments):

(i) to any Person meeting the criteria of clause (i) of the definition of the term of "Eligible Assignee" (a "**Related Lender Assignment**") upon the giving of notice to Borrower Representative and Administrative Agent and, for any assignment of a Revolving Loan Commitment, the consent of Administrative Agent and Issuing Bank (such consent not to be unreasonably withheld or delayed); and

(ii) to any Person meeting the criteria of clause (ii) of the definition of the term of "Eligible Assignee" (other than a Person described in the foregoing subclause (i)) and (except in the case of assignments made by or to JPMorgan Chase or Credit Suisse) consented to by each of Borrower Representative and Administrative Agent and,

for any assignment of Revolving Loan Commitment, Issuing Bank (each such (x) consent not to be unreasonably withheld or delayed or, (y) in the case of Borrower Representative, shall be deemed to have been provided to any such assignment unless the Borrower Representative shall have objected thereto by written notice to the Administrative Agent within fifteen (15) days after having received notice of such assignment, or (z) in the case of Borrower Representative, not to be required at any time during syndication of the Loans to persons identified by the Administrative Agent to the Borrower Representative on or prior to the Closing Date or at any time an Event of Default under Sections 8.1(a), 8.1(f) or 8.1(g) shall have occurred and then be continuing; provided, further each such assignment pursuant to this Section 10.6(c)(ii) shall be in an aggregate amount of not less than $1,000,000 (or such lesser amount as may be agreed to by Borrower Representative and Administrative Agent or as shall constitute the aggregate amount of the Revolving Loan Commitments and Revolving Loans of the assigning Lender) with respect to the assignment of the Revolving Loan Commitments and Revolving Loans.

(d) Mechanics. The assigning Lender and the assignee thereof shall execute and deliver to Administrative Agent (i) an Assignment Agreement (A) via an electronic settlement system acceptable to Administrative Agent (which initially shall be ClearPar, LLC), or (B) manually together with a processing and recordation fee of $3,500, and (ii) such forms, certificates or other evidence, if any, with respect to United States federal income tax withholding matters as the assignee under such Assignment Agreement may be required to deliver to Administrative Agent pursuant to Section 2.19(c); provided, however, that should a Lender or assignee party to a Related Lender Assignment deliver an Assignment Agreement to the Administrative Agent for recording, such Lender or assignee shall provide the relevant administration details and applicable tax forms with such Assignment Agreement.

(e) RESERVED.

(f) Notice of Assignment. Upon its receipt of a duly executed and completed Assignment Agreement, together with the processing and recordation fee referred to in Section 10.6(d) (and any forms, certificates or other evidence required by this Agreement in connection therewith), Administrative Agent shall record the information contained in such Assignment Agreement in the Register and shall maintain a copy of such Assignment Agreement.

(g) Representations and Warranties of Assignee. Each Lender, upon execution and delivery hereof or upon executing and delivering an Assignment Agreement, as the case may be, represents and warrants as of the Closing Date or as of the applicable Effective Date (as defined in the applicable Assignment Agreement) that (i) it is an Eligible Assignee; (ii) it has experience and expertise in the making of or investing in commitments or loans such as the

applicable Commitments or Loans, as the case may be; and (iii) it will make or invest in, as the case may be, its Commitments or Loans for its own account in the ordinary course of its business and without a view to distribution of such Commitments or Loans within the meaning of the Securities Act or the Exchange Act or other federal securities laws (it being understood that, subject to the provisions of this Section 10.6, the disposition of such Commitments or Loans or any interests therein shall at all times

remain within its exclusive control).

(h) Effect of Assignment. Subject to the terms and conditions of this Section 10.6, as of the "Effective Date" specified in the applicable Assignment Agreement: (i) the assignee thereunder shall have the rights and obligations of a "Lender" hereunder to the extent such rights and obligations hereunder have been assigned to it pursuant to such Assignment Agreement and shall thereafter be a party hereto and a "Lender" for all purposes hereof; (ii) the assigning Lender thereunder shall, to the extent that rights and obligations hereunder have been assigned thereby pursuant to such Assignment Agreement, relinquish its rights (other than any rights which survive the termination hereof under Section 10.8) and be released from its obligations hereunder (and, in the case of an Assignment Agreement covering all or the remaining portion of an assigning Lender's rights and obligations hereunder, such Lender shall cease to be a party hereto; provided, anything contained in any of the Credit Documents to the contrary notwithstanding, (y) Issuing Bank shall continue to have all rights and obligations thereof with respect to such Letters of Credit until the cancellation or expiration of such Letters of Credit and the reimbursement of any amounts drawn thereunder and (z) such assigning Lender shall continue to be entitled to the benefit of all indemnities hereunder as specified herein with respect to matters arising out of the prior involvement of such assigning Lender as a Lender hereunder); (iii) the Commitments shall be modified to reflect the Commitment of such assignee and any Revolving Loan Commitment of such assigning Lender, if any; and (iv) if any such assignment occurs after the issuance of any Note hereunder, the assigning Lender shall, upon the effectiveness of such assignment or as promptly thereafter as practicable, surrender its applicable Notes to Administrative Agent for cancellation or deliver a lost note affidavit, and thereupon Borrowers shall issue and deliver new Notes, if so requested by the assignee and/or assigning Lender, to such assignee and/or to such assigning Lender, with appropriate insertions, to reflect the new Revolving Loan Commitments and/or outstanding Loans of the assignee and/or the assigning Lender.

(i) Participations. Each Lender shall have the right at any time to sell one or more participations to any Person (other than to a natural person, Holdings, any of its Subsidiaries or any of its Affiliates) in all or any part of its Commitments, Loans or in any other Obligation. The holder of any such participation shall not be entitled to require such Lender to take or omit to take any action hereunder except with respect to any amendment, modification or waiver that would (i) extend the final scheduled maturity of any Loan, Note or Letter of Credit (unless such Letter of Credit is not extended beyond the Revolving Loan Commitment Termination Date) in which such participant is participating, or reduce the rate or extend the time of payment of interest or fees thereon (except in connection with a waiver of applicability of any post-default increase in interest rates) or reduce the principal amount thereof, or increase the amount of the participant's participation over the amount thereof then in effect (it being understood that a waiver of any Default or Event of Default or of a mandatory reduction in the

Commitment shall not constitute a change in the terms of such participation, and that an increase in any Commitment or Loan shall be permitted without the consent of any participant if the participant's participation is not increased as a result thereof), (ii) consent to the assignment or transfer by any Credit Party of any of its rights and obligations under this Agreement or (iii) release all or substantially all of the Collateral under the Collateral Documents (except as expressly provided in the Credit Documents) supporting the Loans hereunder in which such participant is participating. Borrower Representative agrees that each participant shall be entitled to the benefits of Sections 2.17(c), 2.18 and 2.19 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (c) of this Section; provided, (i) a participant shall not be entitled to receive any greater payment under Section 2.18 or 2.19 than the applicable Lender would have been entitled to receive with respect to the participation sold to such participant, unless the sale of the participation to such participant is made with Borrower Representative's prior written consent and (ii) a participant that would be a Non-US Lender if it were a Lender shall not be entitled to the benefits of Section 2.19 unless Borrower Representative is notified of the participation sold to such participant and such participant agrees, for the benefit of Borrower Representative, to comply with Section 2.19 as though it were a Lender. To the extent permitted by law, each participant also shall be entitled to the benefits of Section 10.4 as though it were a Lender, provided such Participant agrees to be subject to Section 2.16 as though it were a Lender.

(j) Certain Other Assignments. In addition to any other assignment permitted pursuant to this Section 10.6, (i) any Lender may assign and/or pledge all or any portion of its Loans, the other Obligations owed by or to such Lender, and its Notes, if any, to secure obligations of such Lender including, without limitation, any Federal Reserve Bank as collateral security pursuant to Regulation A of the Board of Governors of the Federal Reserve System and any operating circular issued by such Federal Reserve Bank; provided, no Lender, as between Company and such Lender, shall be relieved of any of its obligations hereunder as a result of any such assignment and pledge, and provided further, in no event shall the applicable Federal Reserve Bank, pledgee or trustee be considered to be a "Lender" or be entitled to require the assigning Lender to take or omit to take any action hereunder.

10.7 Independence of Covenants. All covenants hereunder shall be given independent effect so that if a particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or would otherwise be within the limitations of, another covenant shall not avoid the occurrence of a Default or an Event of Default if such action is taken or condition exists.

10.8 Survival of Representations, Warranties and Agreements. All representations, warranties and agreements made herein shall survive the execution and delivery hereof and the making of any Credit Extension. Notwithstanding anything herein or implied by law to the contrary, the agreements of each Credit Party set forth in Sections 2.18(c), 2.19, 2.20, 10.2, 10.3 and 10.4 and the agreements of Lenders set forth in Sections 2.17, 9.3(b) and 9.6 shall survive the payment of the Loans, the cancellation or expiration of the Letters of Credit and the reimbursement of any amounts drawn thereunder, and the termination hereof.

10.9 No Waiver; Remedies Cumulative. No failure or delay on the part of Arranger, any Agent, any Lender or Issuing Bank in the exercise of any power, right or privilege hereunder or under any other Credit Document shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other power, right or privilege. The rights, powers and remedies given to Arranger, each Agent, each Lender and Issuing Bank hereby are cumulative and shall be in addition to and independent of all rights, powers and remedies existing by virtue of any statute or rule of law or in any of the other Credit Documents or any of the Hedge Agreements or Banking Services Agreements. Any forbearance or failure to exercise, and any delay in exercising, any right, power or remedy hereunder shall not impair any such right, power or remedy or be construed to be a waiver thereof, nor shall it preclude the further exercise of any such right, power or remedy.

10.10 Marshalling; Payments Set Aside. Neither any Agent nor any Lender shall be under any obligation to marshal any assets in favor of any Credit Party or any other Person or against or in payment of any or all of the Obligations. To the extent that any Credit Party makes a payment or payments to Administrative Agent, Collateral Agent or Lenders (or to Administrative Agent or Collateral Agent, on behalf of Lenders), or Administrative Agent, Collateral Agent or Lenders enforce any security interests or exercise their rights of setoff, and such payment or payments or the proceeds of such enforcement or setoff or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, any other state or federal law, common law or any equitable cause, then, to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor or related thereto, shall be revived and continued in full force and effect as if such payment or payments had not been made or such enforcement or setoff had not occurred.

10.11 Severability. In case any provision in or obligation hereunder or any Note shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

10.12 Obligations Several; Independent Nature of Lenders' Rights. The obligations of Lenders hereunder are several and no Lender shall be responsible for the obligations or Commitment of any other Lender hereunder. Nothing contained herein or in any other Credit Document, and no action taken by Lenders pursuant hereto or thereto, shall be deemed to constitute Lenders as a partnership, an association, a joint venture or any other kind of entity. The amounts payable at any time hereunder to each Lender shall be a separate and independent debt, and each Lender shall be entitled to protect and enforce its rights arising out hereof and it shall not be necessary for any other

Lender to be joined as an additional party in any proceeding for such purpose.

10.13 Headings. Section headings herein are included herein for convenience of reference only and shall not constitute a part hereof for any other purpose or be given any substantive effect.

10.14 APPLICABLE LAW. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES THEREOF.

10.15 CONSENT TO JURISDICTION. ALL JUDICIAL PROCEEDINGS BROUGHT AGAINST ANY CREDIT PARTY ARISING OUT OF OR RELATING HERETO OR ANY OTHER CREDIT DOCUMENT, OR ANY OF THE OBLIGATIONS, MAY BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION IN THE STATE, COUNTY AND CITY OF NEW YORK. BY EXECUTING AND DELIVERING THIS AGREEMENT, EACH CREDIT PARTY, FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, IRREVOCABLY (a) ACCEPTS GENERALLY AND UNCONDITIONALLY THE NONEXCLUSIVE JURISDICTION AND VENUE OF SUCH COURTS; (b) WAIVES ANY DEFENSE OF FORUM NON CONVENIENS; (c) AGREES THAT SERVICE OF ALL PROCESS IN ANY SUCH PROCEEDING IN ANY SUCH COURT MAY BE MADE BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE APPLICABLE CREDIT PARTY AT ITS ADDRESS PROVIDED IN ACCORDANCE WITH SECTION 10.1; (d) AGREES THAT SERVICE AS PROVIDED IN CLAUSE (c) ABOVE IS SUFFICIENT TO CONFER PERSONAL JURISDICTION OVER THE APPLICABLE CREDIT PARTY IN ANY SUCH PROCEEDING IN ANY SUCH COURT, AND OTHERWISE CONSTITUTES EFFECTIVE AND BINDING SERVICE IN EVERY RESPECT; AND (e) AGREES AGENTS AND LENDERS RETAIN THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST ANY CREDIT PARTY IN THE COURTS OF ANY OTHER JURISDICTION.

10.16 WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY AGREES TO WAIVE ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING HEREUNDER OR UNDER ANY OF THE OTHER CREDIT DOCUMENTS OR ANY DEALINGS BETWEEN THEM RELATING TO THE SUBJECT MATTER OF THIS LOAN TRANSACTION OR THE LENDER/COMPANY RELATIONSHIP THAT IS BEING ESTABLISHED. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS TRANSACTION, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. EACH PARTY HERETO ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL

INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, WHICH EACH HAS ALREADY RELIED ON THIS WAIVER IN ENTERING INTO THIS AGREEMENT, AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN ITS RELATED FUTURE DEALINGS. EACH PARTY HERETO FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING (OTHER THAN BY A MUTUAL WRITTEN WAIVER SPECIFICALLY REFERRING TO THIS SECTION 10.16 AND EXECUTED BY EACH OF THE PARTIES HERETO), AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS HERETO OR ANY OF THE OTHER CREDIT DOCUMENTS OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THE LOANS MADE HEREUNDER. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

10.17 Confidentiality. Each Lender shall hold all non-public information regarding Holdings and its Subsidiaries and their businesses identified as such by Borrower Representative and obtained by such Lender pursuant to the requirements hereof in accordance with such Lender's customary procedures for handling confidential information of such nature, it being understood and agreed by Holdings that, in any event, a Lender may make disclosures: (i) to Affiliates of such Lender and to their agents and advisors (and to other persons authorized by a Lender or Agent to organize, present or disseminate such information in connection with disclosures otherwise made in accordance with this Section 10.17); (ii) reasonably required by any bona fide or potential pledgee, assignee, transferee or participant in connection with the contemplated pledge, assignment, transfer or participation by such Lender of any Loans or any participations therein or by any direct or indirect contractual counterparties (or the professional advisors thereto) in Hedge Agreements or Banking or Services Agreements (provided, such counterparties and advisors are advised of and agree to be bound by the provisions of this Section 10.17); (iii) to any rating agency when required by it, provided that, prior to any disclosure, such rating agency shall undertake in writing to preserve the confidentiality of any confidential information relating to the Credit Parties received by it from any of the Agents or any Lender; and (iv) required or requested by any governmental agency or representative thereof or by The National Association of Insurance Commissioners (and any successor thereto) or pursuant to legal or judicial process; provided, unless specifically prohibited by applicable law or court order, each Lender shall make reasonable efforts to notify Borrower Representative of any request by any governmental agency or representative thereof (other than any such request in connection with any examination of the financial condition or other routine examination of such Lender by such governmental agency) for disclosure of any such non-public information prior to disclosure of such information; provided, further, that in no event shall any Lender be obligated or required to return any materials furnished by Holdings, Company or any of its Subsidiaries. Notwithstanding anything to the contrary set forth herein, each party (and each of their respective employees, representatives or other agents) may disclose to any and all persons, without limitations of any kind, the tax treatment and tax structure of the transactions contemplated by this Agreement and all materials of any kind (including opinions and other tax

analyses) that are provided to any such party relating to such tax treatment and tax structure. However, any information relating to the tax treatment or tax structure shall remain subject to the confidentiality provisions hereof (and the foregoing sentence shall not apply) to the extent reasonably necessary to enable the parties hereto, their respective Affiliates, and their and their respective Affiliates' directors and employees to comply with applicable securities laws. For this purpose, "tax structure" means any facts relevant to the federal income tax treatment of the transactions contemplated by this Agreement but does not include information relating to the identity of any of the parties hereto or any of their respective Affiliates.

10.18 Usury Savings Clause. Notwithstanding any other provision herein, the aggregate interest rate charged with respect to any of the Obligations, including all charges or fees in connection therewith deemed in the nature of interest under applicable law shall not exceed the Highest Lawful Rate. If the rate of interest (determined without regard to the preceding sentence) under this Agreement at any time exceeds the Highest Lawful Rate, the outstanding amount of the Loans made hereunder shall bear interest at the Highest Lawful Rate until the total amount of interest due hereunder equals the amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect. In addition, if when the Loans made hereunder are repaid in full the total interest due hereunder (taking into account the increase provided for above) is less than the total amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect, then to the extent permitted by law, Borrower Representative shall pay to Administrative Agent an amount equal to the difference between the amount of interest paid and the amount of interest which would have been paid if the Highest Lawful Rate had at all times been in effect. Notwithstanding the foregoing, it is the intention of Lenders and Company to conform strictly to any applicable usury laws. Accordingly, if any Lender contracts for, charges, or receives any consideration which

constitutes interest in excess of the Highest Lawful Rate, then any such excess shall be cancelled automatically and, if previously paid, shall at such Lender's option be applied to the outstanding amount of the Loans made hereunder or be refunded to Borrower Representative.

10.19 Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

10.20 Effectiveness. This Agreement shall become effective upon the execution of a counterpart hereof by each Credit Party, the Administrative Agent, the Collateral Agent, the Swing Line Lender, the Issuing Bank and the Lenders.

APPENDIX A-1
TO CREDIT AND GUARANTY AGREEMENT

Revolving Loan Commitments

Lender		Revolving Loan Commitment	Pro Rata Share
Credit Suisse AG, Cayman Islands Branch	$	5,000,000	8-1/3rd %
JPMorgan Chase Bank, N.A.	$	30,000,000	50.0 %
Wachovia Capital Finance Corporation (Central)	$	25,000,000	41-2/3rds %
Total	**$**	**60,000,000**	**100.000000000 %**

APPENDIX B
TO CREDIT AND GUARANTY AGREEMENT

Notice Addresses

DOUGLAS DYNAMICS, INC.
DOUGLAS DYNAMICS FINANCE COMPANY
DOUGLAS DYNAMICS, L.L.C.
FISHER, LLC

7777 North 73rd Street
Milwaukee, WI 53223
Attention: Chief Executive Officer and President
Fax: 414-354-8448

with a copy to:

Aurora Capital Group
10877 Wilshire Boulevard
Suite 2100
Los Angeles, CA 90024
Attention: Secretary
Fax: 310-824-2791

CREDIT SUISSE AG,
acting through its Cayman Islands Branch,
as Administrative Agent,
Swing Line Lender, Issuing Bank and a Lender

Administrative Agent's Principal Office:

Eleven Madison Avenue, OMA-2
New York, NY 10010
Attention: Loan Services Manager
Tel: 212-538-3380
Fax: 212-325-8304

Swing Line Lender's Principal Office:

Eleven Madison Avenue, OMA-2
New York, NY 10010
Attention: Loan Services Manager
Tel: 212-538-3380
Fax: 212-325-8304

Issuing Bank's Principal Office:

Eleven Madison Avenue, OMA-2
New York, NY 10010

Attention: Letter of Credit Manager
Tel: 212-325-9286
Fax: 212-538-5626

JPMORGAN CHASE BANK, N.A.,
as Collateral Agent

Michael A. Hintz
Account Executive — ABL
111 East Wisconsin Ave., Floor 15
Milwaukee, WI 53202-4815
Telecopy: 414-977-6652
Telephone: 414-977-6666

in each case, with a copy to:

Skadden, Arps, Slate, Meagher & Flom LLP
333 West Wacker Drive
Suite 2100
Chicago, IL 60606
Attn: Seth E. Jacobson
Tel: 312-407-0700
Fax: 312-407-0411

Exhibit A

Amended Credit Agreement

See attached.

Exhibit B

Amendment to Term Credit Agreement

See Exhibit 10.1 to Amendment No.5 to the Registration Statement on Form S-1 of Douglas Dynamics, Inc. (File No. 333-164590).

Exhibit C

Intercreditor Amendment

See attached.

Exhibit 10.3

AMENDMENT NO. 1 TO CREDIT AGREEMENT

THIS AMENDMENT NO. 1 TO CREDIT AND GUARANTY AGREEMENT (this "Amendment"), dated as of April 16, 2010, is made and entered into among DOUGLAS DYNAMICS, L.L.C., a Delaware limited liability company (the "Company" or "Borrower Representative"), Fisher, LLC, a Delaware limited liability company ("Fisher"), Douglas Dynamics Finance Company, a Delaware corporation ("DD Finance" and, together with Fisher and the Borrower Representative, each a "Borrower" and collectively the "Borrowers") and each of the Lenders (as hereinafter defined) party hereto.

RECITALS

A. The Borrowers and the Lenders party hereto are parties to that certain Credit and Guaranty Agreement dated as of May 21, 2007 (the "Credit Agreement") among the Borrowers, Credit Suisse AG, Cayman Islands Branch, as Administrative Agent (in such capacity, the "Administrative Agent") on behalf of the Lenders, each lender from time to time party thereto (the "Lenders") and each of the other banks, financial institutions and other entities from time to time party thereto.

B. The Borrowers have requested that the Lenders agree, subject to the conditions and on the terms set forth in this Amendment, to amend certain provisions of the Credit Agreement as set forth herein.

C. The Lenders are willing to amend the Credit Agreement, subject to the conditions and on the terms set forth below.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrowers and each of the Lenders party hereto agree as follows:

1. Definitions. Except as otherwise expressly provided herein, capitalized terms used in this Amendment shall have the meanings given in the Amended Credit Agreement (as defined below), and the rules of interpretation set forth in the Amended Credit Agreement shall apply to this Amendment. In addition:

"Qualifying IPO" means the consummation of the first underwritten public offering of the Capital Stock (other than Disqualified Capital Stock) of Holdings following the Closing Date pursuant to a registration statement filed with the Securities and Exchange Commission in accordance with the Securities Act.

"Qualifying IPO Payment" means, concurrent with the closing of a Qualifying IPO, the one-time payment to Sponsor in connection with the termination of the Management Services Agreement in an aggregate amount not to exceed $6,000,000.

"Qualifying Preferred Stock Redemption" means, concurrent with the closing of a Qualifying IPO, the payment of $1,000 to Aurora Equity Partners II L.P. and $1,000 to Ares Limited Partnership in respect of the redemption of the one share of Series B Preferred Stock and Series C Preferred Stock held by Aurora Equity Partners II L.P. and the Ares Limited Partnership, respectively.

"Qualifying Senior Notes Redemption" means, concurrent with the closing of a Qualifying IPO, the Company and DD Finance (i) have given irrevocable and unconditional notice of redemption for all of the outstanding Senior Notes, (ii) have timely and irrevocably deposited or caused to be deposited with the trustee under the Senior Notes Indenture proceeds of a Qualifying IPO, proceeds of Additional Term Loans (as defined in the Term Loan Facility), Cash and/or proceeds of Revolving Loans sufficient to pay and discharge the entire indebtedness (including all principal, premium, if any, and accrued interest) on all outstanding Senior Notes and (iii) have satisfied all other conditions precedent to the discharge of the Senior Notes Indenture set forth in Section 8.8 of the Senior Notes Indenture.

2. Consent and Agreement. Notwithstanding anything to the contrary in the Credit Documents, the Lenders hereby consent to (i) the redemption of the Senior Notes by the Company pursuant to a Qualifying Senior Notes Redemption, (ii) the payment of the Qualifying IPO Payment and (iii) the redemption by Holdings of all preferred stock of Holdings pursuant to a Qualifying Preferred Stock Redemption. The Company hereby agrees to consummate a Qualifying Senior Notes Redemption concurrently with the consummation of a Qualifying IPO.

3. Amendment. Concurrently with the consummation of a Qualifying IPO, the terms and provisions of the Credit Agreement are hereby amended by replacing such terms and provisions in their entirety with the terms and provisions set forth in the Credit Agreement attached hereto as Exhibit A (the "Amended Credit Agreement").

4. Representations and Warranties. To induce the Lenders to agree to this Amendment, each Borrower represents to the Administrative Agent and the Lenders that as of the date hereof:

(a) such Borrower has all power and authority to enter into this Amendment and to carry out the transactions contemplated by, and to perform its obligations under or in respect of, this Amendment;

(b) the execution and delivery of this Amendment and the performance of the obligations of such Borrower hereunder have been duly authorized by all necessary action on the part of such Borrower;

(c) the execution and delivery of this Amendment by such Borrower, and the performance of the obligations of such Borrower hereunder do not and will not conflict with or violate (i) any provision of the articles of incorporation or bylaws (or similar constituent documents) of such Borrower, (ii) any applicable provision of any material law, statute, rule, regulation, order, writ, injunction or decree of any court or Governmental Authority or (iii) any indenture, agreement or instrument to which

such Borrower is a party or by which such Borrower or any property of such Borrower, is bound, and do not and will not require any consent or approval of any Person that has not been obtained;

(d) this Amendment has been duly executed and delivered by such Borrower and the Credit Agreement and the other Credit Documents, as modified by this Amendment, are the legal, valid and binding obligations of such Borrower, enforceable in accordance with their terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law);

(e) no event has occurred and is continuing or will result from the execution and delivery of this Amendment or the consummation of a Qualifying IPO, the Qualifying IPO Payment, the Qualifying Senior Notes Redemption and/or the Qualifying Preferred Stock Redemption (in each case, after giving effect to this Amendment) that would constitute a Default or an Event of Default;

(f) since December 31, 2006, no event has occurred that has resulted, or could reasonably be expected to result, in a Material Adverse Effect;

(g) each of the representations and warranties made by such Borrower in or pursuant to the Credit Documents are true and correct in all material respects on and as of the date this representation is being made, except for representations and warranties expressly stated to relate to a specific earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date;

(h) the Company has obtained $40 million in Additional Term Loan Commitments (as defined in the Term Loan Facility) under the Term Loan Facility; and

(i) after giving effect to (i) a Qualifying IPO, (ii) the redemption of the Senior Notes by the Company pursuant to the Qualifying Senior Notes Redemption, (iii) the payment of the Qualifying IPO Payment, (iv) the redemption by Holdings of all preferred stock of Holdings pursuant to the Qualifying Preferred Stock Redemption and (v) the incurrence of $40 million aggregate principal amount of Additional Term Loan Commitments under the Term Loan Facility, the aggregate amount of (1) Cash of the Company in Deposit Accounts subject to a Blocked Account Agreement and (2) Excess Availability shall be at least $15,000,000; provided, that Excess Availability will be calculated without giving effect to any Cash.

Each Lender party to this Amendment represents and warrants to each Agent and each Lender that it has made its own independent investigation of the terms of the Credit Agreement and the Amended Credit Agreement and the facts and circumstances surrounding this Amendment, and has not relied in any way on any statement, advice or recommendation of any Agent or Lender in connection herewith. No Agent shall have any duty or responsibility, either initially or on a continuing basis, to make any such investigation on behalf of Lenders or to provide any Lender with any information, advice or recommendation with respect thereto, whether coming into its possession before the execution of this Amendment or at any time or times thereafter, and no Agent shall have any responsibility with respect to the accuracy of or the completeness of any information provided to Lenders relating to any of the foregoing.

5. Effectiveness of Amendments. This Amendment (other than Section 6 hereof which shall be effective as set forth in such Section) shall be effective as of the first date (the "First Amendment Effective Date") on which all of the following conditions precedent have been satisfied:

(a) The Administrative Agent shall have received a counterpart signature page of this Amendment duly executed by each of the Credit Parties and the Requisite Lenders;

(b) The Administrative Agent shall have received a certificate signed by the chief financial officer of the Borrowers dated the First Amendment Effective Date, certifying (A) that the representations and warranties contained in Section 4 of this Amendment are true and correct as of the First Amendment Effective Date and (B) that no event shall have occurred and be continuing or would result from the consummation of a Qualifying IPO, the Qualifying Senior Notes Redemption, the Qualifying Preferred Stock Redemption and/or the Qualifying IPO Payment (in each case, after giving effect to this Amendment) that would constitute a Default or an Event of Default;

(c) The Administrative Agent shall have received all fees required to be paid, and all expenses for which invoices have been presented (including the reasonable fees and expenses of legal counsel), in connection with this Amendment (or shall have made arrangements for the payment thereof satisfactory to the Administrative Agent);

(d) a Qualifying IPO shall have occurred;

(e) Each Credit Party shall have delivered a solvency certificate in form and substance satisfactory to the Administrative Agent; and

(f) Company shall pay, to each Lender executing this Amendment on or before April 16, 2010 by 5:00 p.m. New York City Time, an amendment fee equal to 0.25% of such Lender's Revolving Exposure, which amendment fee shall be payable concurrently with the consummation of the Qualifying IPO.

6. Delivery of Financial Statements. Notwithstanding the provisions set forth in Section 5.1(c) of the Credit Agreement to the contrary, the financial statements of Holdings and its Subsidiaries for the Fiscal Year ended December 31, 2009 that were delivered to the Administrative Agent prior to the date hereof shall be deemed to satisfy the requirements of Section 5.1(c) that such financial statements be of the Company and its Subsidiaries solely with respect to the Fiscal Year ended December 31, 2009. Notwithstanding the provisions set forth in Section 5.1(b) of the Credit Agreement requiring delivery of certain financial statements of the Company and its Subsidiaries, delivery of comparable financial statements of Holdings and its Subsidiaries shall be deemed to satisfy such requirement solely with respect to the Fiscal Quarters ending March 31, 2010 and June 30, 2010. Notwithstanding the provisions of Section 5 of this Amendment, the provisions of this Section 6 shall be effective immediately upon receipt by Administrative Agent of a counterpart signature page of this Amendment duly executed by each of the Credit Parties and the Requisite Lenders.

7. Miscellaneous. **THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, WITHOUT REGARD TO THE CONFLICT OF LAW RULES THEREOF (OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW).** This Amendment may be executed in one or more duplicate counterparts and when signed by all of the parties listed below shall constitute a single binding agreement. Except for the amendments set forth in Section 3 hereof and the consent set forth in Section 2 hereof, all of the provisions of the Credit Agreement and the other Credit Documents shall remain in full force and effect. The foregoing amendments shall be strictly construed in accordance with the express terms thereof. Except with respect to the matters specifically waived or amended thereby, Section 2 and 3 above shall not operate as a waiver of any right, remedy, power or privilege of any Lender or the Administrative Agent under the Credit Agreement or any other Credit Document or of any other term or condition of the Credit Agreement or any other Credit

Document. This Amendment shall be deemed a "Credit Document" as defined in the Credit Agreement. Sections 10.15 and 10.16 of the Credit Agreement shall apply to this Amendment and all past and future amendments to the Credit Agreement and other Credit Documents as if expressly set forth herein or therein.

8. Acknowledgement and Consent.

Holdings has read this Amendment and consents to the terms hereof and further hereby confirms and agrees that, notwithstanding the effectiveness of this Amendment, the obligations of Holdings under, and the Liens granted by Holdings as collateral security for the indebtedness, obligations and liabilities evidenced by the Credit Agreement and the other Credit Documents pursuant to, each of the Credit Documents to which Holdings is a party shall not be impaired and each of the Credit Documents to which Holdings is a party is, and shall continue to be, in full force and effect and is hereby confirmed and ratified in all respects. Holdings and each Borrower hereby acknowledges and agrees that the Secured Obligations under, and as defined in, the ABL Pledge and Security Agreement dated as of May 21, 2007, by and among Holdings and the Borrowers and Administrative Agent (the "Pledge and Security Agreement") and, with respect to the other Collateral Documents, the Obligations secured by the Liens granted thereby, will include all Obligations under, and as defined in, the Amended Credit Agreement.

Holdings acknowledges and agrees that (i) notwithstanding the conditions to effectiveness set forth in this Amendment, Holdings is not required by the terms of the Credit Agreement or any other Credit Document to consent to the amendments to the Credit Agreement effected pursuant to this Amendment and (ii) nothing in the Credit Agreement, this Amendment or any other Credit Document shall be deemed to require the consent of Holdings to any future amendments to the Credit Agreement.

9. Consent to Term Amendment and Intercreditor Amendment.

(a) Pursuant to Section 5.3(a) of the Intercreditor Agreement, the Lenders party hereto hereby consent to (i) an amendment to the Term Credit Agreement (as defined in the Intercreditor Agreement) in substantially the form of Exhibit B and (ii) any amendments to the other Term Loan Documents (as defined in the Intercreditor Agreement) executed in connection therewith; and

(b) The Lenders party hereto hereby consent to the execution of an amendment to the Intercreditor Agreement in substantially the form of Exhibit C (the "Intercreditor Amendment") and hereby authorize and instruct (i) the Administrative Agent to execute the Intercreditor Amendment in its capacity as ABL Administrative Agent thereunder and (ii) the Collateral Agent to execute the Intercreditor Amendment in its capacity as ABL Collateral Agent thereunder.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed by their duly authorized officers as of the day and year first above written.

BORROWERS:

DOUGLAS DYNAMICS, L.L.C.

By: /s/ Robert McCormick

Name: Robert McCormick
Title: VP CFO

DOUGLAS DYNAMICS FINANCE COMPANY

By: /s/ Robert McCormick
Name: Robert McCormick
Title: VP CFO

FISHER, LLC

By: /s/ Robert McCormick
Name: Robert McCormick
Title: VP CFO

HOLDINGS (for purposes of Section 8):

DOUGLAS DYNAMICS, INC.

By: /s/ Robert McCormick
Name: Robert McCormick
Title: VP CFO

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH,
as a Lender

By: /s/ William O'Daly
Name: William O'Daly
Title: Director

By: /s/ Ilya Ivashkov
Name: Ilya Ivashkov
Title: Associate

JPMORGAN CHASE BANK, N.A.
as a Lender

By: /s/ Richard Marcus
Name: Richard Marcus
Title: Senior Vice President

Wachovia Capital Finance Corporation (Central),
as a Lender

By: /s/ Maged Ghebrial
Name: Maged Ghebrial
Title: Vice President

ACKNOWLEDGED:

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH,
as a Administrative Agent

By: /s/ William O'Daly
Name: William O'Daly
Title: Director

By: /s/ Ilya Ivashkov
Name: Ilya Ivashkov
Title: Associate

AMENDMENT NO. 1 TO INTERCREDITOR AGREEMENT

This AMENDMENT NO. 1 TO INTERCREDITOR AGREEMENT (this "Amendment"), dated as of April [ ], 2010, is made and entered into among Douglas Dynamics, L.L.C., a Delaware limited liability company (the "Borrower"), Douglas Dynamics Finance Company, a Delaware corporation ("DD Finance"), Fisher, LLC, as Delaware limited liability company ("Fisher"), Douglas Dynamics, Inc., a Delaware corporation ("Holdings"), Credit Suisse AG, Cayman Islands Branch ("Credit Suisse"), in its capacity as administrative agent under the ABL Loan Documents (as defined in the Intercreditor Agreement referred to below) (in such capacity, the "ABL Administrative Agent"), JPMorgan Chase Bank, N.A, in its capacity as collateral agent under the ABL Loan Documents (in such capacity, the "ABL Collateral Agent"), Credit Suisse, in its capacities as administrative agent (in such capacity, the "Term Administrative Agent" and, together with the ABL Administrative Agent, the "Administrative Agents") and collateral agent (in such capacity, the "Term Collateral Agent") under the Term Loan Documents (as defined in the Intercreditor Agreement referred to below).

RECITALS

A. The Borrower, DD Finance, Fisher, Holdings, the ABL Administrative Agent, the ABL Collateral Agent, the Term Administrative Agent and the Term Collateral Agent entered into that certain Intercreditor Agreement dated as of May 21, 2007 (the "Intercreditor Agreement"; capitalized terms used but not defined herein having the meanings set forth therein).

B. Concurrently herewith, the Term Credit Agreement and the ABL Credit Agreement have been amended to permit the making of additional term loans under the Term Credit Agreement in the principal amount of $40,000,000 and reflect certain other changes.

C. The ABL Required Lenders and the Term Required Lenders have given their prior written consent to the execution of this Amendment.

D. The Borrower, the Term Administrative Agent, the Term Collateral Agent, the ABL Administrative Agent and the ABL Collateral Agent desire to amend the Intercreditor Agreement as set forth below on and subject to the terms of this Amendment.

AGREEMENT

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

1. Amendment to Intercreditor Agreement.

(a) The definition of "Maximum Term Principal Amount" in Section 1.1 of the Intercreditor Agreement is hereby amendedin its entirety by deleting the existing definition and replacing it with the following:

"Maximum Term Principal Amount" shall mean, at any time, (i) $125,000,000, less (ii) the aggregate principal amount of permanent repayments or prepayments of indebtedness under the Term Credit Agreement, other than any such reduction, repayment or prepayment made in

connection with a Refinancing, plus (iii) for the avoidance of doubt and without duplication, the aggregate principal amount of any interest that has been capitalized under the Term Credit Agreement..

(b) The definition of "Maximum ABL Principal Amount" in Section 1.1 of the Intercreditor Agreement is hereby amended in its entirety by deleting the existing definition and replacing it with the following:

"Maximum ABL Principal Amount" shall mean, at any time, (i) $60,000,000, less (ii) the aggregate permanent reductions in the ABL Loan Commitments other than any such reduction, repayment or prepayment made in connection with a Refinancing, plus (iii) for the avoidance of doubt and without duplication, the aggregate principal amount of any interest that has been capitalized under the ABL Credit Agreement.

2. Effectiveness of Amendment.. This Amendment shall be effective as of the first date (the "Amendment Effective Date") on which all of the following conditions precedent have been satisfied:

(c) The Administrative Agents shall have received counterparts of this Amendment executed by the Term Administrative Agent, the Term Collateral Agent, the ABL Administrative Agent, the ABL Collateral Agent, the Borrower, DD Finance, Fisher and Holdings.

(d) The Administrative Agents shall have received an executed copy of Amendment No. 2 to Credit and Guaranty Agreement, dated as of the date hereof (the "Term Amendment"), among the Borrower and each of the lenders party thereto and the Term Amendment shall be in full force and effect.

(e) The Administrative Agents shall have received an executed copy of Amendment No. 1 to Credit and Guaranty Agreement, dated as of the date hereof (the "ABL Amendment"), among the Borrower and each of the lenders party thereto and the ABL Amendment shall be in full force and effect.

3. Miscellaneous. **THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, WITHOUT REGARD TO THE CONFLICT OF LAW RULES THEREOF (OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW).** This Amendment may be executed in one or more duplicate counterparts and when signed by all of the parties listed below shall constitute a single binding agreement. Except for the amendments set forth in Section 1 hereof, all of the provisions of the Intercreditor Agreement shall remain in full force and effect. The foregoing amendments shall be strictly construed in accordance with the express terms thereof. This Amendment shall be deemed a "Credit Document" as defined in the Credit Agreement.

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed by their duly authorized officers as of the day and year first above written.

CREDIT PARTIES:

DOUGLAS DYNAMICS, L.L.C.

By: _____
Name:
Title:

DOUGLAS DYNAMICS, INC.

By: _____
Name:
Title:

DOUGLAS DYNAMICS FINANCE COMPANY

By: _____
Name:
Title:

FISHER, LLC,

By: _____
Name:
Title:

ABL ADMINISTRATIVE AGENT:

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH, as ABL Administrative Agent

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

ABL COLLATERAL AGENT:

JPMORGAN CHASE, N.A.,
as ABL Collateral Agent

By: _____
Name: _____
Title: _____

TERM ADMINISTRATIVE AGENT AND TERM COLLATERAL AGENT:

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH,
as Term Administrative Agent and Term Collateral Agent

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Exhibit 10.4

EXHIBIT A-1

FUNDING NOTICE

Reference is made to the Credit and Guaranty Agreement, dated as of May 21, 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, or otherwise renewed, refinanced or replaced from time to time (including subsequent or successive renewals, refinancings or replacements, and pursuant to one or more agreements or facilities), the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among Douglas Dynamics Holdings, Inc., a Delaware corporation ("Holdings"), Douglas Dynamics, L.L.C., a Delaware limited liability company and a direct wholly-owned Subsidiary of Holdings (the "Company" or the "Borrower Representative"), Fisher, LLC, a Delaware limited liability company ("Fisher") and Douglas Dynamics Finance Company, a Delaware corporation ("DD Finance," and together with Fisher and the Borrower Representative, each a "Borrower" and collectively the "Borrowers") the banks and financial institutions having Revolving Loan Commitments or listed on the signature pages thereof (together with their respective successors and assigns, each individually referred to herein as a "Lender" and collectively as "Lenders"), Credit Suisse, Cayman Islands Branch ("Credit Suisse"), as administrative agent for the Lenders (in such capacity, "Administrative Agent") and JPMorgan Chase Bank, N.A., as collateral agent for the Lenders (in such capacity, "Collateral Agent").

Pursuant to Section[s] [2.1(b)] [and] [2.2(b)] of the Credit Agreement, Borrower Representative desires that Lenders make the following Credit Extension[s] to Company in accordance with the applicable terms and conditions of the Credit Agreement on [mm/dd/yyyy] (the "Credit Date"):

1. Revolving Loans

☐ Base Rate Loans: $[, ,]

☐ Eurodollar Rate Loans, with an Initial Interest Period of Month(s): $[, ,]

3. Swing Line Loans: $[, ,]

Borrower Representative (for itself and on behalf of the other Borrowers) hereby certifies that:

(i) the Credit Extension[s] requested herein [comply] [complies] with the provisions of Section[s] [2.1] [and] [2.2]; and

(ii) the conditions specified in Section 3.2 have been satisfied on and as of the Credit Date.

Date: [mm/dd/yyyy]

DOUGLAS DYNAMICS, L.L.C.

By: _____
Name:
Title:

EXHIBIT A-2

CONVERSION/CONTINUATION NOTICE

Reference is made to the Credit and Guaranty Agreement, dated as of May 21, 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, or otherwise renewed, refinanced or replaced from time to time (including subsequent or successive renewals, refinancings or replacements, and pursuant to one or more agreements or facilities), the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among Douglas Dynamics Holdings, Inc., a Delaware corporation ("Holdings"), Douglas Dynamics, L.L.C., a Delaware limited liability company and a direct wholly-owned Subsidiary of Holdings (the "Company" or the "Borrower Representative"), Fisher, LLC, a Delaware limited liability company ("Fisher") and Douglas Dynamics Finance Company, a Delaware corporation ("DD Finance," and together with Fisher and the Borrower Representative, each a "Borrower" and collectively the "Borrowers") the banks and financial institutions having Revolving Loan Commitments or listed on the signature pages thereof (together with their respective successors and assigns, each individually referred to herein as a "Lender" and collectively as "Lenders"), Credit Suisse, Cayman Islands Branch ("Credit Suisse"), as administrative agent for the Lenders (in such capacity, "Administrative Agent") and JPMorgan Chase Bank, N.A., as collateral agent for the Lenders (in such capacity, "Collateral Agent").

Pursuant to Section 2.8 of the Credit Agreement, Borrower Representative (for itself and on behalf of the other Borrowers) desires to convert or to continue the following Revolving Loans, each such conversion and/or continuation to be effective as of [mm/dd/yyyy]:

$[, ,] Eurodollar Rate Loans to be continued with Interest Period of month(s)

$[, ,] Base Rate Loans to be converted to Eurodollar Rate Loans with Interest Period of month(s)

$[, ,] Eurodollar Rate Loans to be converted to Base Rate Loans

Except in the case of a conversion to Base Rate Loans, Borrower Representative (for itself and on behalf of the other Borrowers) hereby certifies that as of the date hereof, no event has occurred and is continuing or would result from the consummation of the conversion and/or continuation contemplated hereby that would constitute an Event of Default or a Default.

Date: [mm/dd/yyyy]

DOUGLAS DYNAMICS, L.L.C.

By: _____
Name:
Title:

ISSUANCE NOTICE

Reference is made to the Credit and Guaranty Agreement, dated as of May 21, 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, or otherwise renewed, refinanced or replaced from time to time (including subsequent or successive renewals, refinancings or replacements, and pursuant to one or more agreements or facilities), the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among Douglas Dynamics Holdings, Inc., a Delaware corporation ("Holdings"), Douglas Dynamics, L.L.C., a Delaware limited liability company and a direct wholly-owned Subsidiary of Holdings (the "Company" or the "Borrower Representative"), Fisher, LLC, a Delaware limited liability company ("Fisher") and Douglas Dynamics Finance Company, a Delaware corporation ("DD Finance," and together with Fisher and the Borrower Representative, each a "Borrower" and collectively the "Borrowers") the banks and financial institutions having Revolving Loan Commitments or listed on the signature pages thereof (together with their respective successors and assigns, each individually referred to herein as a "Lender" and collectively as "Lenders"), Credit Suisse, Cayman Islands Branch ("Credit Suisse"), as administrative agent for the Lenders (in such capacity, "Administrative Agent") and JPMorgan Chase Bank, N.A., as collateral agent for the Lenders (in such capacity, "Collateral Agent").

Pursuant to Section 2.3(b) of the Credit Agreement, Borrower Representative (for itself and on behalf of the other Borrowers) desires a Letter of Credit to be issued in accordance with the terms and conditions of the Credit Agreement on [mm/dd/yyyy] (the "Credit Date") in an aggregate face amount of $[, ,].

Attached hereto for each such Letter of Credit are the following:

(i) the stated amount of such Letter of Credit;

(ii) the name and address of the beneficiary;

(iii) the expiration date; and

(iv) either (a) the verbatim text of such proposed Letter of Credit, or (b) a description of the proposed terms and conditions of such Letter of Credit, including a precise description of any documents to be presented by the beneficiary which, if presented by the beneficiary prior to the expiration date of such Letter of Credit, would require the Issuing Bank to make payment under such Letter of Credit.

Borrower Representative (for itself and on behalf of the other Borrowers) hereby certifies that:

(i) the Credit Extension requested herein complies with the provisions of Section 2.3; and

(ii) the conditions specified in Section 3.2 have been satisfied on and as of the Credit Date.

Date: [mm/dd/yyyy]

DOUGLAS DYNAMICS, L.L.C.

By: _____
Name:
Title:

EXHIBIT B-l

REVOLVING LOAN NOTE

$[Lender's Revolving Loan Commitment]
[ ], 2007 New York, New York

FOR VALUE RECEIVED, the undersigned (individually a "Borrower" and collectively, the "Borrowers"), promises to pay [NAME OF LENDER] ("Payee") or its registered assigns, on or before the Revolving Loan Commitment Termination Date, the lesser of (a) [AMOUNT] DOLLARS ($[, ,]) and (b) the unpaid principal amount of all advances made by Payee to the Borrowers as Revolving Loans under the Credit and Guaranty Agreement, dated as of May 21, 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, or otherwise renewed, refinanced or replaced from time to time (including subsequent or successive renewals, refinancings or replacements, and pursuant to one or more agreements or facilities), the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among Douglas Dynamics Holdings, Inc., a Delaware corporation, Douglas Dynamics, L.L.C., a Delaware limited liability company, Fisher, LLC, a Delaware limited liability company, Douglas Dynamics Finance Company, a Delaware corporation, the banks and financial institutions having Revolving Loan Commitments or listed on the signature pages thereof (together with their respective successors and assigns, each individually referred to herein as a "Lender" and collectively as "Lenders"), Credit Suisse, Cayman Islands Branch ("Credit Suisse"), as administrative agent for the Lenders (in such capacity, "Administrative Agent") and JPMorgan Chase Bank, N.A., as collateral agent for the Lenders (in such capacity, "Collateral Agent").

This Revolving Loan Note (this "Note") is one of the "Revolving Loan Notes" issued pursuant to and entitled to the benefits of the Credit Agreement, to which reference is hereby made for a more complete statement of the terms and conditions under which the Revolving Loans evidenced hereby were made and are to be repaid.

All payments of principal and interest in respect of this Note shall be made in lawful money of the United States of America in same day funds at the Principal Office of Administrative Agent or at such other place as shall be designated in writing for such purpose in accordance with the terms of the Credit Agreement. Unless and until an Assignment Agreement effecting the assignment or transfer of the obligations evidenced hereby shall have been accepted by Administrative Agent and recorded in the Register, the Borrowers, each Agent and Lenders shall be entitled to deem and treat Payee as the owner and holder of this Note and the obligations evidenced hereby. Payee hereby agrees, by its acceptance hereof, that before disposing of this Note or any part hereof it will make a notation hereon of all principal payments previously made hereunder and of the date to which interest hereon has been paid; provided that the failure to make a notation of any payment made on this Note shall not limit or otherwise affect the obligations of the Borrowers hereunder with respect to payments of principal of or interest on this Note.

This Note is subject to mandatory prepayment and to prepayment at the option of the Borrowers, each as provided in the Credit Agreement.

THIS NOTE AND THE RIGHTS AND OBLIGATIONS OF THE BORROWERS AND PAYEE HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES THEREOF.

Whenever possible, each provision of this Note shall be interpreted in such manner as to be effective and valid under applicable law, but in case any provision of or obligation under this Note shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby. Whenever in this Note reference is made to Administrative Agent,

Payee or the Borrowers, such reference shall be deemed to include, as applicable, a reference to their respective successors and assigns. The provisions of this Note shall be binding upon the Borrowers and their successors and assigns, and shall inure to the benefit of Payee and its successors and assigns.

Upon the occurrence of an Event of Default, the unpaid balance of the principal amount of this Note, together with all accrued and unpaid interest thereon, may become, or may be declared to be, due and payable in the manner, upon the conditions and with the effect provided in the Credit Agreement.

The terms of this Note are subject to amendment only in the manner provided in the Credit Agreement.

No reference herein to the Credit Agreement and no provision of this Note or the Credit Agreement shall alter or impair the obligations of the Borrowers, which are absolute and unconditional, to pay the principal of and interest on this Note at the place, at the respective times, and in the currency herein prescribed.

The Borrowers promise to pay all costs and expenses, including reasonable attorneys' fees, all as provided in the Credit Agreement, incurred in the collection and enforcement of this Note. The Borrowers and any endorsers of this Note hereby consent to renewals and extensions of time at or after the maturity hereof, without notice, and hereby waive diligence, presentment, protest, demand notice of every kind and, to the full extent permitted by law, the right to plead any statute of limitations as a defense to any demand hereunder.

[Signature page follows]

IN WITNESS WHEREOF, the Borrowers have caused this Note to be duly executed and delivered by its officer thereunto duly authorized as of the date and at the place first written above.

BORROWERS:

DOUGLAS DYNAMICS, L.L.C.

By: _____
Name:
Title:

DOUGLAS DYNAMICS FINANCE COMPANY

By: _____
Name:
Title:

FISHER, LLC

By: _____
Name:
Title:

TRANSACTIONS ON
REVOLVING LOAN NOTE

Date	Amount of Loan Made This Date	Amount of Principal Paid This Date	Outstanding Principal Balance This Date	Notation Made By

EXHIBIT B-2

SWING LINE NOTE

$[Lender's Commitment]
[ ], 2007 New York, New York

FOR VALUE RECEIVED, the undersigned (individually a "Borrower" and collectively, the "Borrowers"), promises to pay to [NAME OF LENDER] as Swing Line Lender ("Payee"), on or before the Revolving Loan Commitment Termination Date, the lesser of (a) [AMOUNT] DOLLARS ($[,]) and (b) the unpaid principal amount of all advances made by Payee to the Borrowers as Swing Line Loans under the Credit and Guaranty Agreement, dated as of May 21,2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, or otherwise renewed, refinanced or replaced from time to time (including subsequent or successive

renewals, refinancings or replacements, and pursuant to one or more agreements or facilities), the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among Douglas Dynamics Holdings, Inc., a Delaware corporation, Douglas Dynamics, L.L.C., a Delaware limited liability company, Fisher, LLC, a Delaware limited liability company, Douglas Dynamics Finance Company, a Delaware corporation, the banks and financial institutions having Revolving Loan Commitments or listed on the signature pages thereof (together with their respective successors and assigns, each individually referred to herein as a "Lender" and collectively as "Lenders"), Credit Suisse, Cayman Islands Branch ("Credit Suisse"), as administrative agent for the Lenders (in such capacity, "Administrative Agent") and JPMorgan Chase Bank, N.A., as collateral agent for the Lenders (in such capacity, "Collateral Agent").

This Swing Line Note (this "Note") is the "Swing Line Note" and is issued pursuant to and entitled to the benefits of the Credit Agreement, to which reference is hereby made for a more complete statement of the terms and conditions under which the Swing Line Loans evidenced hereby were made and are to be repaid.

All payments of principal and interest in respect of this Note shall be made in lawful money of the United States of America in same day funds at the Principal Office of Swing Line Lender or at such other place as shall be designated in writing for such purpose in accordance with the terms of the Credit Agreement.

This Note is subject to mandatory prepayment and to prepayment at the option of the Borrowers, each as provided in the Credit Agreement.

THIS NOTE AND THE RIGHTS AND OBLIGATIONS OF THE BORROWERS AND PAYEE HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES THEREOF.

Upon the occurrence of an Event of Default, the unpaid balance of the principal amount of this Note, together with all accrued and unpaid interest thereon, may become, or may be declared to be, due and payable in the manner, upon the conditions and with the effect provided in the Credit Agreement.

The terms of this Note are subject to amendment only in the manner provided in the Credit Agreement.

No reference herein to the Credit Agreement and no provision of this Note or the Credit Agreement shall alter or impair the obligations of the Borrowers, which are absolute and unconditional, to pay the principal of and interest on this Note at the place, at the respective times, and in the currency herein prescribed.

The Borrowers promise to pay all costs and expenses, including reasonable attorneys' fees, all as provided in the Credit Agreement, incurred in the collection and enforcement of this Note. The Borrowers and any endorsers of this Note hereby consent to renewals and extensions of time at or after the maturity hereof, without notice, and hereby waive diligence, presentment, protest, demand notice of every kind and, to the full extent permitted by law, the right to plead any statute of limitations as a defense to any demand hereunder.

[Signature page follows]

IN WITNESS WHEREOF, the Borrowers have caused this Note to be duly executed and delivered by its officer thereunto duly authorized as of the date and at the place first written above.

DOUGLAS DYNAMICS, L.L.C.

By: _____
Name:
Title:

DOUGLAS DYNAMICS FINANCE COMPANY

By: _____
Name:
Title:

FISHER, LLC

By: _____
Name:
Title:

TRANSACTIONS ON
SWING LINE NOTE

Date	Amount of Loan Made This Date	Amount of Principal Paid This Date	Outstanding Principal Balance This Date	Notation Made By

EXHIBIT C

COMPLIANCE CERTIFICATE

THE UNDERSIGNED HEREBY CERTIFIES AS FOLLOWS:

1. I am the Chief Financial Officer of Douglas Dynamics, L.L.C. (the "Company" or the "Borrower Representative").

2. I have reviewed the terms of that certain Credit and Guaranty Agreement, dated as of May 21, 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, or otherwise renewed, refinanced or replaced from time to time (including subsequent or successive renewals, refinancings or replacements, and pursuant to one or more agreements or facilities), the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among Douglas Dynamics Holdings, Inc., a Delaware corporation ("Holdings"), the Company, Fisher, LLC, a Delaware limited liability company ("Fisher") and Douglas Dynamics Finance Company, a Delaware corporation ("DD Finance," and together with Fisher and the Borrower Representative, each a "Borrower" and collectively the "Borrowers") the banks and financial institutions having Revolving Loan Commitments or listed on the signature pages thereof (together with their respective successors and assigns, each individually referred to herein as a "Lender" and collectively as "Lenders"), Credit Suisse, Cayman Islands Branch ("Credit Suisse"), as administrative agent for the Lenders (in such capacity, "Administrative Agent") and JPMorgan Chase Bank, N.A., as collateral agent for the Lenders (in such capacity, "Collateral Agent"), and I have made, or have caused to be made under my supervision, a review in reasonable detail of the transactions and condition of Holdings and its Subsidiaries during the accounting period covered by the attached financial statements.

3. The examination described in paragraph 2 above did not disclose, and I have no knowledge of, the existence of any condition or event which constitutes an Event of Default or Default during or at the end of the accounting period covered by the attached financial statements or as of the date of this Certificate, except as set forth in a separate attachment, if any, to this Certificate, describing in detail, the nature of the condition or event, the period during which it has existed and the action which the Company or any of its Subsidiaries has taken, is taking, or proposes to take with respect to each such condition or event.

The foregoing certifications, together with the computations set forth in the Annex A hereto and made a part hereof and the financial statements delivered with this Certificate in support hereof, are made and delivered [mm/dd/yyyy] pursuant to Section 5.1(d) or 5.1(i) of the Credit Agreement or in connection with the making of a Permitted Acquisition under the Credit Agreement.

DOUGLAS DYNAMICS, L.L.C.

By: _____
Name:
Title:

ANNEX A TO
COMPLIANCE CERTIFICATE

FOR THE FISCAL [QUARTER] [YEAR] ENDING [mm/dd/yyyy]

This Annex A is attached to and made part of a Compliance Certificate dated as of [mm/dd/yyyy] and pertains to the period [mm/dd/yyyy] to [mm/dd/yyyy]. Subsection references herein relate to subsections of the Credit Agreement.

1. Consolidated Adjusted EBITDA:			(i) + (ii)(1) - (iii)(2) =	$	[, ,]
(i)	Consolidated Net Income:			$	[, ,]
(ii)	(a)	Consolidated Interest Expense and non-Cash interest expense:		$	[, ,]
	(b)	provisions for taxes based on income:		$	[, ,]
	(c)	total depreciation expense:		$	[, ,]
	(d)	total amortization expense: (3)		$	[, ,]
	(e)	non-cash impairment charges:		$	[, ,]
	(f)	non-cash expenses resulting from the grant of stock and stock options and other compensation to management personnel of the Company and its Subsidiaries pursuant to a written incentive plan or agreement:		$	[, ,]
	(g)	other non-Cash items that are unusual or otherwise non-recurring items:		$	[, ,]
	(h)	expenses for fees under the Management Services Agreement:		$	[, ,]
	(i)	any extraordinary losses and non-recurring charges during any period:(4)		$	[, ,]
	(j)	restructuring charges or reserves:(5)		$	[, ,]
	(k)	any transaction costs incurred in connection with the issuance of Securities or any refinancing transaction, in each case whether or not such transaction is consummated:		$	[, ,]

(1) Without duplication to the extent deducted in the calculation of Consolidated Net Income for such period.

(2) Without duplication.

(3) Including amortization of goodwill, other intangibles, and financing fees and expenses.

(4) Including severance, relocations costs, one-time compensation charges and losses or charges associated with Interest Rate Agreements.

(5) Including costs related to closure of Facilities.

	(l)	any fees and expenses related to any Permitted Acquisitions	$	[, ,]
(iii)	(a)	non-Cash items increasing Consolidated Net Income for such period that are unusual or otherwise non-recurring items:	$	[, ,]
	(b)	cash payments made during such period reducing reserves or liabilities for accruals made in prior periods but only to the extent such reserves or accruals were added back to "Consolidated Adjusted EBITDA" in a prior period pursuant to clauses (ii)(f) or (ii)(g) above:	$	[, ,]
	(c)	Restricted Payments made during such period to Holdings pursuant to Section 6.5(c)(i):	$	[, ,]
2. Consolidated Capital Expenditures:			$	[, ,]
		The aggregate of all expenditures of the Company and its Subsidiaries during such period determined on a consolidated basis that, in accordance with GAAP, are or should be included in "purchase of property and equipment" or similar items reflected in the consolidated statement of cash flows of the Company and its Subsidiaries. (6)		
		Maximum: (7)	$	[, ,]
3. Consolidated Fixed Charges: (i) + (ii) + (iii) + (iv) + (v) = (8)			$	[, ,]
(i)		Consolidated Interest Expense:	$	[, ,]
(ii)		scheduled payments of principal on Consolidated Total Debt:	$	[, ,]
(iii)		Consolidated Capital Expenditures: (9)	$	[, ,]
(iv)		the portion of taxes based on income actually paid in cash during such period by the Company or any of its Subsidiaries whether for such period or any other period:	$	[, ,]
(v)		Restricted Payments permitted under Section 6.5(c)(iii) of the Credit Agreement and which are paid in cash during such period:	$	[, ,]
6. Consolidated Interest Expense: (i) - (ii) =			$	[, ,]

(6) Excluding expenditures constituting the purchase price for Permitted Acquisitions and amounts constituting Net Asset Sale Proceeds and Net Insurance/Condemnation Proceeds which are reinvested in the business of Company and its Subsidiaries in accordance with Section 2.13(a) or Section 2.13(b) of the Credit Agreement, respectively, by the Company and its Subsidiaries during such period.

(7) Maximum for calendar year.

(8) Without duplication.

(9) Other than those financed with secured Indebtedness permitted by Sections 6.1 and 6.2 of the Credit Agreement.

	(i)	total interest expense (including that portion attributable to Capital Leases in accordance with GAAP and capitalized interest) payable in cash of the Company and its Subsidiaries on a consolidated basis with respect to all outstanding Indebtedness of the Company and its Subsidiaries, including all commissions, discounts and other fees and charges owed with respect to letters of credit and net costs under Interest Rate Agreements: (10)	$	[, ,]
	(ii)	the aggregate amount of interest income of the Company and its Subsidiaries during such period paid in cash:	$	[, ,]
7. Consolidated Net Income: (i) - (ii) =			$	[, ,]
(i)		the net income (or loss) of the Company and its Subsidiaries on a consolidated basis for such period taken as a single accounting period determined in conformity with GAAP:	$	[, ,]
(ii)	(a)	the income (or loss) of any Person (other than a Subsidiary of the Company) in which any other Person (other than the Company or any of its Subsidiaries) has a joint interest, except to the extent of the amount of dividends or other distributions actually paid to the Company or any of its Subsidiaries by such Person during such period:	$	[, ,]
	(b)	the income (or loss) of any Person accrued prior to the date it becomes a Subsidiary of the Company or is merged into or consolidated with the Company or any of its Subsidiaries or that Person's assets are acquired by the Company or any of its Subsidiaries:	$	[, ,]
(c)		the income of any Subsidiary of the Company to the extent that the declaration or payment of dividends or similar distributions by that Subsidiary of that income is not at the time permitted by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Subsidiary:	$	[, ,]
	(d)	any after-tax gains or losses attributable to Asset Sales or returned surplus assets of any Pension Plan:	$	[, ,]

(e)	to the extent not included in items (a) through (d) above, any net extraordinary gains or net extraordinary losses:	$	[, ,]
8. Consolidated Total Debt:		$	[, ,]
	The aggregate stated balance sheet amount of all Indebtedness of the Company and its Subsidiaries determined on a consolidated basis		

(10) Excluding any amounts referred to in Section 2.10(d) of the Credit Agreement payable on or before the Closing Date and amounts with respect to the termination of Interest Rate Agreements entered into within 90 days of the Closing Date.

	in accordance with GAAP; provided, that the amount of revolving Indebtedness to be included at the date of determination shall be equal to the average of the balances of such revolving Indebtedness as of the end of each of the prior four calendar quarters: (11)		$	[, ,]
9. Fixed Charge Coverage Ratio: (12) (i)/(ii) =				
(i)	Consolidated Adjusted EBITDA for the 12 months then ended:		$	[, ,]
(ii)	Consolidated Fixed Charges for such 12 month period:		$	[, ,]
		Actual:	. :1.00	
		Required:(13)	1.00:1.00	
10. Leverage Ratio: (14), (15) (i)/(ii) =				
(i)	Consolidated Total Debt less unrestricted Cash and Cash Equivalents of the Company and its Subsidiaries as of such day in excess of $1,000,000:		$	[, ,]
(ii)	Consolidated Adjusted EBITDA for the four-Fiscal Quarter period then ended:		$	[, ,]
		Actual:	. :1.00	
		Required:	. :1.00	

(11) Except that with respect to the first four calendar quarters after the Closing Date, the amount of revolving Indebtedness to be included shall be based on the average of the quarter end balances from the Closing Date through the date of determination.

(12) Calculated as of the last day of any month.

(13) If a Liquidity Event then exists.

(14) Calculated as of the last day of any 12 month period.

(15) For purposes of determining the unsecured debt basket pursuant to Section 6.1(k).

EXHIBIT D

OPINION OF COUNSEL FOR CREDIT PARTIES

EXHIBIT E

ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement (this "Assignment") is dated as of the Effective Date set forth below and is entered into by and between [NAME OF ASSIGNOR] (the "Assignor"') and [NAME OF ASSIGNEE] (the "Assignee"). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as the same may be amended, restated, supplemented or otherwise modified from time to time, or otherwise renewed, refinanced or replaced from time to time (including subsequent or successive renewals, refinancings or replacements, and pursuant to one or more agreements or facilities), the "Credit Agreement"), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed are hereby agreed to and incorporated herein by reference and made a part of this Assignment as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by Administrative Agent as contemplated below, the interest in and to all of the Assignor's rights and obligations under the Credit Agreement and any other documents or instruments delivered pursuant thereto that represents the amount and percentage interest identified below of all of the Assignor's outstanding rights and obligations under the respective facilities identified below (including to the extent included in any such Loans and Letters of Credit) (the "Assigned Interest"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and the Credit Agreement, without representation or warranty by the Assignor.

1. Assignor:

2. Assignee: [and is an Affiliate/Related Fund/Sponsor/Fund affiliated with Sponsor(1)]

3.	Borrower(s):	Douglas Dynamics, L.L.C.
4.	Administrative Agent:	Credit Suisse, acting through its Cayman Islands Branch, as the administrative agent under the Credit Agreement
5.	Credit Agreement:	The Credit and Guaranty Agreement, dated as of May 21, 2007, by and among Douglas Dynamics Holdings, Inc., a Delaware corporation ("Holdings"), Douglas Dynamics, L.L.C, a Delaware limited liability company and a direct wholly-owned Subsidiary of Holdings (the "Company" or the "Borrower Representative"), Fisher, LLC, a Delaware limited liability company ("Fisher") and Douglas Dynamics Finance Company, a Delaware corporation ("DD Finance," and together with Fisher and the Borrower Representative, each a "Borrower" and collectively the "Borrowers") the banks and financial institutions having Revolving Loan Commitments or listed on the signature pages thereof (together with their respective successors and assigns, each individually referred to herein as a "Lender" and collectively as "Lenders"), Credit Suisse, Cayman Islands Branch ("Credit Suisse"), as administrative agent for the Lenders (in such capacity, "Administrative Agent") and JPMorgan Chase Bank, N.A., as collateral agent for the Lenders (in such capacity, "Collateral Agent")

(1) Select as applicable.

6. Assigned Revolving Loan Commitment:

Aggregate Amount of Commitment/Loans for all Lenders	Amount of Commitment/Loans Assigned	Percentage Assigned of Commitment/Loans(2)
$	$	%
$	$	%
$	$	%

Effective Date: , 20 *[TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]*

7. Notice and Wire Instructions:

[NAME OF ASSIGNOR]

Notices:

Attention:
Telecopier:

with a copy to:

Attention:
Telecopier:

Wire Instructions:

[NAME OF ASSIGNEE]

Notices:

Attention:
Telecopier:

with a copy to:

Attention:
Telecopier:

Wire Instructions:

(2) Set forth, to at least 9 decimal places, as a percentage of the Commitment/Loans of all Lenders thereunder.

The terms set forth in this Assignment are hereby agreed to:

ASSIGNOR:
[NAME OF ASSIGNOR]

By:
Name:
Title:

ASSIGNEE:
[NAME OF ASSIGNEE]

By:
Name:
Title:

[Consented to and](3) Accepted:

CREDIT SUISSE,
acting through its Cayman Islands Branch,
as Administrative Agent

By: _____
Name:
Title:

By: _____
Name:
Title:

[Consented to by Borrower Representative:](4)

DOUGLAS DYNAMICS, L.L.C.

By: _____
Name:
Title:

(3) If required pursuant to Section 10.6(c) of the Credit Agreement.

(4) If required pursuant to Section 10.6(c) of the Credit Agreement.

ANNEX 1

STANDARD TERMS AND CONDITIONS FOR ASSIGNMENT AND ASSUMPTION AGREEMENT

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with any Credit Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Credit Agreement or any other instrument or document delivered pursuant thereto, other than this Assignment (herein collectively the "Credit Documents"), or any collateral thereunder, (iii) the financial condition of Holdings, the Company, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Credit Document or (iv) the performance or observance by Holdings, the Company, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Credit Document.

1.2 Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all requirements of an Eligible Assignee under the Credit Agreement, (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Credit Agreement and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and to purchase the Assigned Interest on the basis of which it has made such analysis and decision, and (v) if it is a Non-US Lender, attached to the Assignment is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at that time, continue to make its own credit decisions in taking or not taking action under the Credit Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Credit Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignee whether such amounts have accrued prior to or on or after the Effective Date. The Assignor and the Assignee shall make all appropriate adjustments in payments by Administrative Agent for periods prior to the Effective Date or with respect to the making of this assignment directly between themselves.

3. Post-Default. After the occurrence and during the continuation of an Event of Default, the Company may identify, by written to notice to the Administrative Agent (and the Administrative Agent shall promptly notify the Lenders), up to two banks, financial institutions or other entities who shall not be permitted to be an Eligible Assignee during the continuation of such Event of Default.

4. General Provisions. This Assignment shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment by telecopy shall be effective as delivery of a manually executed

counterpart of this Assignment. This Assignment shall be governed by, and construed in accordance with, the laws of the State of New York without regard to conflict of laws principles thereof.

EXHIBIT F

CERTIFICATE RE: NON-BANK STATUS

Reference is made to the Credit and Guaranty Agreement, dated as of May 21, 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, or otherwise renewed, refinanced or replaced from time to time (including subsequent or successive renewals, refinancings or replacements, and pursuant to one or more agreements or facilities), the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among Douglas Dynamics Holdings, Inc., a Delaware corporation ("Holdings"), Douglas Dynamics, L.L.C., a Delaware limited liability company and a direct wholly-owned Subsidiary of Holdings (the "Company" or the "Borrower Representative"), Fisher, LLC, a Delaware limited liability company ("Fisher") and Douglas Dynamics Finance Company, a Delaware corporation ("DD Finance," and together with Fisher and the Borrower Representative, each a "Borrower" and collectively the "Borrowers") the banks and financial institutions having Revolving Loan Commitments or listed on the signature pages thereof (together with their respective successors and assigns, each individually referred to herein as a "Lender" and collectively as "Lenders"), Credit Suisse, Cayman Islands Branch ("Credit Suisse"), as administrative agent for the Lenders (in such capacity, "Administrative Agent") and JPMorgan Chase Bank, N.A., as collateral agent for the Lenders (in such capacity, "Collateral Agent").

Pursuant to Section 2.19(c) of the Credit Agreement, the undersigned hereby certifies that it is not a "bank" or other Person described in Section 881(c)(3) of the Internal Revenue Code of 1986, as amended. Attached hereto are two original copies of Internal Revenue Service Form W-8 (or its successor form) properly completed and duly executed.

[NAME OF LENDER]

By: _____
Name:
Title:

EXHIBIT G

SOLVENCY CERTIFICATE

THE UNDERSIGNED HEREBY CERTIFIES AS FOLLOWS:

1. I am the Chief Financial Officer of Douglas Dynamics Holdings, Inc., a Delaware corporation ("Holdings") and Douglas Dynamics, L.L.C., a Delaware limited liability company (the "Company" or the "Borrower Representative").

2. Reference is made to the Credit and Guaranty Agreement, dated as of May 21, 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, or otherwise renewed, refinanced or replaced from time to time (including subsequent or successive renewals, refinancings or replacements, and pursuant to one or more agreements or facilities), the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among Holdings, the Company, Fisher, LLC, a Delaware limited liability company ("Fisher") and Douglas Dynamics Finance Company, a Delaware corporation ("DD Finance," and together with Fisher and the Borrower Representative, each a "Borrower" and collectively the "Borrowers") the banks and financial institutions having Revolving Loan Commitments or listed on the signature pages thereof (together with their respective successors and assigns, each individually referred to herein as a "Lender" and collectively as "Lenders"), Credit Suisse, Cayman Islands Branch ("Credit Suisse"), as administrative agent for the Lenders (in such capacity, "Administrative Agent") and JPMorgan Chase Bank, N.A., as collateral agent for the Lenders (in such capacity, "Collateral Agent").

3. I have reviewed the terms of Sections 3 and 4 of the Credit Agreement and the definitions and provisions contained in the Credit Agreement relating thereto, and, in my opinion, have made, or have caused to be made under my supervision, such examination or investigation as is necessary to enable me to express an informed opinion as to the matters referred to herein.

4. Based upon my review and examination described in paragraph 3 above, I certify, solely in my capacity as the chief financial officer of Holdings and Company, that, as of the date hereof, after giving effect to the incurrence of the Obligations under the Credit Documents, the borrowings under the Term Loan Facility and the other transactions contemplated by the Credit Documents, (a) Holdings and its Subsidiaries (on a consolidated basis) are and will be Solvent and (b) each Borrower is and will be Solvent.

The foregoing certifications are made and delivered as of [ ], 2007.

DOUGLAS DYNAMICS HOLDINGS, INC.
DOUGLAS DYNAMICS, L.L.C.

By: _____
Name:
Title: Chief Financial Officer

EXHIBIT H

COUNTERPART AGREEMENT

This COUNTERPART AGREEMENT, dated [mm/dd/yyyy] (this "Counterpart Agreement"), is delivered pursuant to that certain Credit and Guaranty Agreement, dated as of May 21, 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, or otherwise renewed, refinanced or replaced from time to time (including subsequent or successive renewals, refinancings or replacements, and pursuant to one or more agreements or facilities), the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among Douglas Dynamics Holdings, Inc., a Delaware corporation

("Holdings"), Douglas Dynamics, L.L.C., a Delaware limited liability company and a direct wholly-owned Subsidiary of Holdings (the "Company" or the "Borrower Representative"), Fisher, LLC, a Delaware limited liability company ("Fisher") and Douglas Dynamics Finance Company, a Delaware corporation ("DD Finance," and together with Fisher and the Borrower Representative, each a "Borrower" and collectively the "Borrowers") the banks and financial institutions having Revolving Loan Commitments or listed on the signature pages thereof (together with their respective successors and assigns, each individually referred to herein as a "Lender" and collectively as "Lenders"), Credit Suisse, Cayman Islands Branch ("Credit Suisse"), as administrative agent for the Lenders (in such capacity, "Administrative Agent") and JPMorgan Chase Bank, N.A., as collateral agent for the Lenders (in such capacity, "Collateral Agent").

Section 1. Pursuant to Section 5.10 of the Credit Agreement, the undersigned hereby:

(a) agrees that this Counterpart Agreement may be attached to the Credit Agreement and that by the execution and delivery hereof, the undersigned becomes a Guarantor under the Credit Agreement and agrees to be bound by all of the terms thereof;

(b) represents and warrants that each of the representations and warranties set forth in the Credit Agreement and each other Credit Document and applicable to the undersigned is true and correct both before and after giving effect to this Counterpart Agreement, except to the extent that any such representation and warranty relates solely to any earlier date, in which case such representation and warranty is true and correct as of such earlier date;

(c) no event has occurred or is continuing as of the date hereof, or will result from the transactions contemplated hereby on the date hereof, that would constitute an Event of Default or a Default;

(d) irrevocably and unconditionally guarantees the due and punctual payment in full of all Obligations when the same shall become due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. § 362(a)) and in accordance with Section 7 of the Credit Agreement; and

(e) (i) agrees that this Counterpart Agreement may be attached to the Pledge and Security Agreement, (ii) agrees that the undersigned will comply with all the terms and conditions of the Pledge and Security Agreement as if it were an original signatory thereto, (iii) grants to Secured Parties (as such term is defined in the Pledge and Security Agreement) a security interest in all of the undersigned's right, title and interest in, to and under all personal property, subject to the limited exclusions set forth in Section 2.3 of the Pledge and Security Agreement, of the undersigned including, but not limited to the following, in each case whether now owned or existing or hereafter acquired or arising and wherever located (as each of the following is defined in the Pledge and Security Agreement and all of which being hereinafter collectively referred to as the "Collateral"): Accounts; Chattel Paper; Documents; General Intangibles; Goods; Instruments; Insurance; Intellectual Property; Investment Related Property; Letter of Credit Rights; Money; Receivables and Receivable Records; Commercial Tort Claims; to the extent not otherwise included in the foregoing, all Collateral Records, Collateral Support and Supporting Obligations relating to any of the foregoing; and to the extent not otherwise included in the foregoing, all Proceeds, products, accessions, rents and profits of or in respect of any of the foregoing, and (iv) delivers to Collateral Agent supplements to all schedules attached to the Pledge and Security Agreement. All such Collateral shall be deemed to be

part of the "Collateral" and hereafter subject to each of the terms and conditions of the Pledge and Security Agreement.

Section 2. The undersigned agrees from time to time, upon request of Administrative Agent, to take such additional actions and to execute and deliver such additional documents and instruments as Administrative Agent may request to effect the transactions contemplated by, and to carry out the intent of, this Counterpart Agreement. Neither this Counterpart Agreement nor any term hereof may be changed, waived, discharged or terminated, except by an instrument in writing signed by the party (including, if applicable, any party required to evidence its consent to or acceptance of this Counterpart Agreement) against whom enforcement of such change, waiver, discharge or termination is sought. Any notice or other communication herein required or permitted to be given shall be given pursuant to Section 10.1 of the Credit Agreement, and all for purposes thereof, the notice address of the undersigned shall be the address as set forth on the signature page hereof. In case any provision in or obligation under this Counterpart Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

THIS COUNTERPART AGREEMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES THEREOF.

[Signature page follows]

IN WITNESS WHEREOF, the undersigned has caused this Counterpart Agreement to be duly executed and delivered by its duly authorized officer as of the date above first written.

[NAME OF SUBSIDIARY]

By: _____
Name:
Title:

Address for Notices:

_____
_____
_____
Attention:
Telecopier

with a copy to:

_____
_____
_____
Attention:
Telecopier

ACKNOWLEDGED AND ACCEPTED,
as of the date above first written:

CREDIT SUISSE,
acting through its Cayman Islands Branch,
as Administrative Agent

By: _____
Name:
Title:

By: _____
Name:
Title:

JPMorgan Chase Bank, N.A.,
as Collateral Agent

By: _____
Name:
Title:

EXHIBIT I

PLEDGE AND SECURITY AGREEMENT

EXECUTION VERSION

ABL PLEDGE AND SECURITY AGREEMENT

dated as of May 21, 2007

among

DOUGLAS DYNAMICS, L.L.C.
DOUGLAS DYNAMICS FINANCE COMPANY
FISHER, LLC
DOUGLAS DYNAMICS HOLDINGS, INC.

EACH OF THE OTHER GRANTORS PARTY HERETO

and

JPMORGAN CHASE BANK, N.A.,

as Collateral Agent

TABLE OF CONTENTS

ABL PLEDGE AND SECURITY AGREEMENT, dated as of May 21, 2007 (this "**Agreement**"), between **EACH OF THE UNDERSIGNED**, whether as an original signatory hereto or as an Additional Grantor (as herein defined) (each, a "**Grantor**"), and **JPMORGAN CHASE BANK, N.A.** ("**JPMorgan Chase**"), as collateral agent for the Secured Parties (as herein defined) (in such capacity as collateral agent, the "**Collateral Agent**").

RECITALS:

WHEREAS, reference is made to that certain Credit and Guaranty Agreement dated as May 21, 2007(as amended, restated, supplemented, Refinanced or otherwise modified from time to time in accordance with its terms, the "**Credit Agreement**"), by and among Douglas Dynamics Holdings, Inc., a Delaware corporation ("**Holdings**"), Douglas Dynamics, L.L.C., a Delaware limited liability company and a direct wholly-owned Subsidiary of Holdings (the "**Company**" or the "**Borrower Representative**"), Fisher, LLC, a Delaware limited liability company ("**Fisher**") and Douglas Dynamics Finance Company, a Delaware corporation ("**DD Finance**," and together with Fisher and the Borrower Representative, each a **"Borrower"** and collectively the "**Borrowers**") the banks and financial institutions having Revolving Loan Commitments or listed on the signature pages hereof (together with their respective successors and assigns, each individually referred to herein as a "**Lender**" and collectively as "**Lenders**"), Credit Suisse, Cayman Islands Branch ("**Credit Suisse**"), as administrative agent for the Lenders (in such capacity, "**Administrative Agent**") and JPMorgan Chase, as collateral agent for the Lenders (in such capacity, the "**Collateral Agent**");

WHEREAS, pursuant to the Credit Agreement, the lenders thereunder have extended or will extend certain Loans the Borrowers, which Obligations are to be guaranteed by Holdings and future Domesitc Subsidiaries of the Company (such parties, together with Company, each a "**Credit Party**," and collectively, the "**Credit Parties**") and, in connection therewith, each Grantor has agreed to secure such Grantor's obligations under the Credit Documents, Banking Services Agreements and the Hedge Agreements with a First Priority security interest in the ABL Priority Collateral and a Second Priority security interest in the Term Priority Collateral;

WHEREAS, subject to the terms and conditions of the Credit Agreement, certain Grantors may enter into one or more Hedge Agreements with one or more Lender Counterparties;

WHEREAS, the Company has also entered into the Term Credit Agreement, whereby the lenders thereunder have extended or will extend certain loans to the Company, to be guaranteed by Holdings and the Subsidiary Guarantors and in connection therewith, each of the Company, Holdings and the Subsidiary Guarantors thereunder have agreed to secure such party's obligations thereunder with a First Priority Security Interest in the Term Priority Collateral and a Second Priority security interest in the ABL Priority Collateral, each in favor of the Term Collateral Agent;

WHEREAS, concurrently herewith, the Collateral Agent hereunder and the Term Collateral Agent have entered into an Intercreditor Agreement which provides for, inter alia, the relative priorities of the security interests granted herein and in the Term Security Agreement;

WHEREAS, in consideration of the extensions of credit and other accommodations of Lenders and Lender Counterparties as set forth in the Credit Agreement, the Hedge Agreements and the Banking Services Agreements, respectively, each Grantor has agreed to secure such Grantor's obligations under the Credit Documents, the Hedge Agreements and the Banking Services Agreements as set forth herein; and

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NOW, THEREFORE, in consideration of the premises and the agreements, provisions and covenants herein contained, each Grantor and the Collateral Agent agree as follows:

SECTION 1. DEFINITIONS.

General Definitions. In this Agreement, the following terms shall have the following meanings:

"ABL Hedging Obligations" shall have the meaning assigned to such term in the Intercreditor Agreement.

"ABL Banking Services Obligations" shall have the meaning assigned to such term in the Intercreditor Agreement.

"Account Debtor" shall mean each Person who is obligated on a Receivable or any Supporting Obligation related thereto.

"Accounts" shall mean all "accounts" as defined in Article 9 of the UCC.

"Agent" shall have the meaning assigned to such term in the Credit Agreement.

"Agreement" shall have the meaning set forth in the preamble.

"Additional Grantors" shall have the meaning set forth in Section 5.3.

"Assigned Agreements" shall mean, with respect to any Grantor, all agreements and contracts to which such Grantor is a party as of the date hereof, or to which such Grantor becomes a party after the date hereof..

"Banking Services Agreement" shall have the meaning assigned to such term in the Credit Agreement.

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

"Cash Proceeds" shall have the meaning assigned in Section 7.7.

"Chattel Paper" shall mean all "chattel paper" as defined in Article 9 of the UCC, including, without limitation, "electronic chattel paper" or "tangible chattel paper", as each term is defined in Article 9 of the UCC.

"Collateral" shall have the meaning assigned in Section 2.1.

"Collateral Account" shall mean any account established by the Collateral Agent.

"Collateral Agent" shall have the meaning set forth in the preamble.

"Collateral Records" shall mean books, records, ledger cards, files, correspondence, customer lists, blueprints, technical specifications, manuals, computer software, computer printouts, tapes, disks and related data processing software and similar items that at any

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time evidence or contain information relating to any of the Collateral or are otherwise necessary or helpful in the collection thereof or realization thereupon.

"Collateral Support" shall mean all property (real or personal) assigned, hypothecated or otherwise securing any Collateral and shall include any security agreement or other agreement granting a lien or security interest in such real or personal property.

"Commercial Tort Claims" shall mean all "commercial tort claims" as defined in Article 9 of the UCC, including, without limitation, all commercial tort claims listed on Schedule 4.6 (as such schedule may be amended or supplemented from time to time).

"Commodities Accounts" (i) shall mean all "commodity accounts" as defined in Article 9 of the UCC and (ii) shall include, without limitation, all of the accounts listed on Schedule 4.4 under the heading "**Commodities Accounts**" (as such schedule may be amended or supplemented from time to time).

"Company" shall have the meaning set forth in the recitals hereto.

"Controlled Foreign Corporation" shall mean "controlled foreign corporation" as defined in the Tax Code.

"Copyright Licenses" shall mean any and all agreements providing for the granting of any right in or to Copyrights (whether any Grantor is licensee or licensor thereunder) including, without limitation, each agreement referred to in Schedule 4.5 (B) (as such schedule may be amended or supplemented from time to time).

"Copyrights" shall mean all United States, and foreign copyrights (including Community designs), including but not limited to copyrights in software and databases, and all Mask Works (as defined under 17 U.S.C. 901 of the U.S. Copyright Act), whether registered or unregistered, and, with respect to any and all of the foregoing: (i) all registrations and applications therefor including, without limitation, the registrations and applications referred to in Schedule 4.5(A) (as such schedule may be amended or supplemented from time to time), (ii) all extensions and renewals thereof, (iii) all rights corresponding thereto throughout the world, and (iv) all rights to sue for past, present and future infringements thereof.

"Credit Agreement" shall have the meaning set forth in the recitals hereto.

"Credit Documents" shall have the meaning assigned to such term in the Credit Agreement.

"Deposit Accounts" (i) shall mean all "deposit accounts" as defined in Article 9 of the UCC and (ii) shall include, without limitation, all of the accounts

listed on Schedule 4.4 under the heading "Deposit Accounts" (as such schedule may be amended or supplemented from time to time).

"Documents" shall mean all "documents" as defined in Article 9 of the UCC.

"Equipment" shall mean: (i) all "equipment" as defined in Article 9 of the UCC, (ii) all machinery, manufacturing equipment, data processing equipment, computers, office equipment, furnishings, furniture, appliances, fixtures and tools (in each case, regardless of whether characterized as equipment under the UCC) and (iii) all accessions or additions thereto,

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all parts thereof, whether or not at any time of determination incorporated or installed therein or attached thereto, and all replacements therefor, wherever located, now or hereafter existing, including any fixtures.

"Event of Default" shall have the meaning assigned to such term in the Credit Agreement.

"**First Priority"** shall have the meaning assigned to such term in the Credit Agreement.

"General Intangibles" (i) shall mean all "general intangibles" as defined in Article 9 of the UCC, including "payment intangibles" also as defined in Article 9 of the UCC and (ii) shall include, without limitation, all interest rate or currency protection or hedging arrangements, all tax refunds, all licenses, permits, concessions and authorizations, all Assigned Agreements and all Intellectual Property (in each case, regardless of whether characterized as general intangibles under the UCC).

"Goods" (i) shall mean all "goods" as defined in Article 9 of the UCC and (ii) shall include, without limitation, all Inventory and Equipment (in each case, regardless of whether characterized as goods under the UCC).

"Grantors" shall have the meaning set forth in the preamble.

"Hedge Agreement" shall have the meaning assigned to such term in the Credit Agreement.

"Holdings" shall have the meaning set forth in the recitals hereto.

"Instruments" shall mean all "instruments" as defined in Article 9 of the UCC.

"Insurance" shall mean (i) all insurance policies covering any or all of the Collateral (regardless of whether the Collateral Agent is the loss payee thereof) and (ii) any key man life insurance policies.

"Intellectual Property" shall mean, collectively, the Copyrights, the Copyright Licenses, the Patents, the Patent Licenses, the Trademarks, the Trademark Licenses, the Trade Secrets, and the Trade Secret Licenses.

"Intercreditor Agreement" shall mean the Intercreditor Agreement dated the date hereof, among the Company, the Collateral Agent hereunder and the Term Collateral Agent, as amended, restated, supplemented or otherwise modified from time to time in accordance with its terms.

"Inventory" shall mean (i) all "inventory" as defined in Article 9 of the UCC and (ii) all goods held for sale or lease or to be furnished under contracts of service or so leased or furnished, all raw materials, work in process, finished goods, and materials used or consumed in the manufacture, packing, shipping, advertising, selling, leasing, furnishing or production of such inventory or otherwise used or consumed in any Grantor's business; all goods in which any Grantor has an interest in mass or a joint or other interest or right of any kind; and all goods which are returned to or repossessed by any Grantor, all computer programs embedded in any

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goods and all accessions thereto and products thereof (in each case, regardless of whether characterized as inventory under the UCC).

"Investment Accounts" shall mean the Collateral Account, Securities Accounts, Commodities Accounts and Deposit Accounts.

"Investment Related Property" shall mean: (i) all "investment property" (as such term is defined in Article 9 of the UCC) and (ii) all of the following (regardless of whether classified as investment property under the UCC): all Pledged Equity Interests, Pledged Debt, the Investment Accounts and certificates of deposit.

"Lender" shall have the meaning assigned to such term in the Credit Agreement.

"Lender Counterparty" shall have the meaning assigned to such term in the Credit Agreement.

"Letter of Credit Right" shall mean "letter-of-credit right" as defined in Article 9 of the UCC.

"Lien" shall have the meaning assigned to such term in the Credit Agreement.

"Material Adverse Effect" shall have the meaning assigned to such term in the Credit Agreement.

"Money" shall mean "money" as defined in the UCC.

"Obligations" shall have the meaning assigned to such term in the Credit Agreement.

"Patent Licenses" shall mean all agreements providing for the granting of any right in or to Patents (whether any Grantor is licensee or licensor thereunder) including, without limitation, each agreement referred to in Schedule 4.5(D) (as such schedule may be amended or supplemented from time to time).

"Patents" shall mean all United States and foreign patents and certificates of invention, or similar industrial property rights, and applications for any of the foregoing, including, but not limited to: (i) each patent and patent application referred to in Schedule 4.5(C) hereto (as such schedule may be amended or supplemented from time to time), (ii) all reissues, divisions, continuations, continuations-in-part, extensions, renewals, and reexaminations thereof, (ii) all rights corresponding thereto throughout the world, (ii) all inventions and improvements described therein, and (iv) all rights to sue for past, present and future infringements thereof, (v) all licenses, claims, damages, and proceeds of suit arising therefrom.

"Permitted Lien" shall have the meaning given to such term in the Credit Agreement.

"Person" means and includes natural persons, corporations, limited partnerships, general partnerships, limited liability companies, limited liability

partnerships, joint stock companies, Joint Ventures, associations, companies, trusts, banks, trust companies, land trusts,

business trusts or other organizations, whether or not legal entities, and Governmental Authorities.

"Pledge Supplement" shall mean any supplement to this agreement in substantially the form of Exhibit A.

"Pledged Debt" shall mean all Indebtedness owed to any Grantor, regardless of whether evidenced by instrument or promissory note, including, without limitation, all Indebtedness described on Schedule 4.4(A) under the heading "Pledged Debt" (as such schedule may be amended or supplemented from time to time), issued by the obligors named therein, the instruments evidencing such Indebtedness, and all interest, cash, instruments and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such Indebtedness.

"Pledged Equity Interests" shall mean all Pledged Stock, Pledged LLC Interests, Pledged Partnership Interests and Pledged Trust Interests.

"Pledged LLC Interests" shall mean all interests in any limited liability company including, without limitation, all limited liability company interests listed on Schedule 4.4(A) under the heading "Pledged LLC Interests" (as such schedule may be amended or supplemented from time to time) and the certificates, if any, representing such limited liability company interests and any interest of any Grantor on the books and records of such limited liability company or on the books and records of any securities intermediary pertaining to such interest and all dividends, distributions, cash, warrants, rights, options, instruments, securities and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such limited liability company interests.

"Pledged Partnership Interests" shall mean all interests in any general partnership, limited partnership, limited liability partnership or other partnership including, without limitation, all partnership interests listed on Schedule 4.4(A) under the heading "Pledged Partnership Interests" (as such schedule may be amended or supplemented from time to time) and the certificates, if any, representing such partnership interests and any interest of any Grantor on the books and records of such partnership or on the books and records of any securities intermediary pertaining to such interest and all dividends, distributions, cash, warrants, rights, options, instruments, securities and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such partnership interests.

"Pledged Stock" shall mean all shares of capital stock owned by any Grantor, including, without limitation, all shares of capital stock described on Schedule 4.4(A) under the heading "Pledged Stock" (as such schedule may be amended or supplemented from time to time), and the certificates, if any, representing such shares and any interest of any Grantor in the entries on the books of the issuer of such shares or on the books of any securities intermediary pertaining to such shares, and all dividends, distributions, cash, warrants, rights, options, instruments, securities and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such shares.

"Pledged Trust Interests" shall mean all interests in a Delaware business trust or other trust including, without limitation, all trust interests listed on Schedule 4.4(A) under the heading "Pledged Trust Interests" (as such schedule may be amended or supplemented from time to time) and the certificates, if any, representing such trust interests and any interest of any

Grantor on the books and records of such trust or on the books and records of any securities intermediary pertaining to such interest and all dividends, distributions, cash, warrants, rights, options, instruments, securities and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such trust interests.

"Proceeds" shall mean: (i) all "proceeds" as defined in Article 9 of the UCC, (ii) payments or distributions made with respect to any Investment Related Property and (iii) whatever is receivable or received when Collateral or proceeds are sold, leased, licensed, exchanged, collected or otherwise disposed of, whether such disposition is voluntary or involuntary.

"Receivables" shall mean all rights to payment, whether or not earned by performance, for goods or other property sold, leased, licensed, assigned or otherwise disposed of, or services rendered or to be rendered, including, without limitation all such rights constituting or evidenced by any Account, Chattel Paper, Instrument, General Intangible or Investment Related Property, together with all of Grantor's rights, if any, in any goods or other property giving rise to such right to payment and all Collateral Support and Supporting Obligations related thereto and all Receivables Records.

"Receivables Records" shall mean (i) all original copies of all documents, instruments or other writings or electronic records or other Records evidencing the Receivables, (ii) all books, correspondence, credit or other files, Records, ledger sheets or cards, invoices, and other papers relating to Receivables, including, without limitation, all tapes, cards, computer tapes, computer discs, computer runs, record keeping systems and other papers and documents relating to the Receivables, whether in the possession or under the control of any Grantor or any computer bureau or agent from time to time acting for any Grantor or otherwise, (iii) all evidences of the filing of financing statements and the registration of other instruments in connection therewith, and amendments, supplements or other modifications thereto, notices to other creditors or secured parties, and certificates, acknowledgments, or other writings, including, without limitation, lien search reports, from filing or other registration officers, (iv) all credit information, reports and memoranda relating thereto and (v) all other written or nonwritten forms of information related in any way to the foregoing or any Receivable.

"Record" shall have the meaning specified in Article 9 of the UCC.

"Refinance" means, in respect of any indebtedness, to refinance, extend, renew, defease, amend, modify, supplement, restructure, replace, refund or repay, or to issue other indebtedness, in exchange or replacement for, such indebtedness in whole or in part. **"Refinanced"** and **"Refinancing"** shall have correlative meanings.

"Secured Obligations" shall have the meaning assigned in Section 3.1.

"Secured Parties" shall mean the Collateral Agent, each Agent, the Issuing Bank, the Lenders and the Lender Counterparties and shall include, without limitation, (i) all former Lenders and Lender Counterparties to the extent that any Obligations owing to such Persons were incurred while such Persons were Lenders or Lender Counterparties and such Obligations have not been paid or satisfied in full, (ii) any person who is or was a Lender or an Affiliate of a Lender who entered into a Hedge Agreement and (iii) any person who is or was a Lender or an Affiliate of a Lender who entered into a Banking Services Agreement.

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

"Securities Accounts" (i) shall mean all "securities accounts" as defined in Article 8 of the UCC and (ii) shall include, without limitation, all of the accounts listed on Schedule 4.4(A) under the heading "Securities Accounts" (as such schedule may be amended or supplemented from time to time).

"Subsidiary Guarantor" shall mean any Subsidiary of the Company that becomes a Guarantor in accordance with Section 5.10 of the Credit Agreement.

"Supporting Obligation" shall mean all "supporting obligations" as defined in Article 9 of the UCC.

"Tax Code" shall mean the United States Internal Revenue Code of 1986, as amended from time to time.

"Term Collateral Agent" means Credit Suisse, Cayman Islands Branch, as collateral agent under the Term Security Agreement, or any permitted successor, replacement or assign.

"Term Credit Agreement" shall have the meaning assigned to such term in the recitals.

"Term Credit Documents" shall mean the Term Credit Agreement and the other "Credit Documents" as defined in the Term Credit Agreement.

"Term Security Agreement" means that certain Term Pledge and Security Agreement dated as of the date hereof, among the Company, the other Grantors party hereto, and Credit Suisse, Cayman Islands Branch, as collateral agent thereunder.

"Trademark Licenses" shall mean any and all agreements providing for the granting of any right in or to Trademarks (whether any Grantor is licensee or licensor thereunder) including, without limitation, each agreement referred to in Schedule 4.5(F) (as such schedule may be amended or supplemented from time to time).

"Trademarks" shall mean all United States, and foreign trademarks, trade names, corporate names, company names, business names, fictitious business names, Internet domain names, service marks, certification marks, collective marks, logos, other source or business identifiers, designs and general intangibles of a like nature, all registrations and applications for any of the foregoing including, but not limited to: (i) the registrations and applications referred to in Schedule 4.5 (E) (as such schedule may be amended or supplemented from time to time), (ii) all extensions or renewals of any of the foregoing, (iii) all of the goodwill of the business connected with the use of and symbolized by the foregoing, and (iv) the right to sue for past, present and future infringement or dilution of any of the foregoing or for any injury to goodwill.

"Trade Secret Licenses" shall mean any and all agreements providing for the granting of any right in or to Trade Secrets (whether any Grantor is licensee or licensor thereunder) including, without limitation, each agreement referred to in Schedule 4.5 (G) (as such schedule may be amended or supplemented from time to time).

"Trade Secrets" shall mean all trade secrets and all other confidential or proprietary information and know-how whether or not such Trade Secret has been reduced to a writing or other tangible form, including all documents and things embodying, incorporating, or referring in any way to such Trade Secret, including but not limited to the right to sue for past, present and future misappropriation or other violation of any Trade Secret.

"UCC" shall mean the Uniform Commercial Code as in effect from time to time in the State of New York or, when the context implies, the Uniform Commercial Code as in effect from time to time in any other applicable jurisdiction.

"United States" shall mean the United States of America.

Definitions; Interpretation. All capitalized terms used herein (including the preamble and recitals hereto) and not otherwise defined herein shall have the meanings ascribed thereto in the Credit Agreement or, if not defined therein, in the UCC. References to "Sections," "Exhibits" and "Schedules" shall be to Sections, Exhibits and Schedules, as the case may be, of this Agreement unless otherwise specifically provided. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose or be given any substantive effect. Any of the terms defined herein may, unless the context otherwise requires, be used in the singular or the plural, depending on the reference. The use herein of the word "include" or "including", when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not nonlimiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter. If any conflict or inconsistency exists between this Agreement and the Credit Agreement, the Credit Agreement shall govern. If any conflict or inconsistency exists between this Agreement, the Term Security Agreement and the Intercreditor Agreement with respect to the rights and obligations of the Collateral Agent hereunder and the Term Collateral Agent, the Intercreditor Agreement shall control. All references herein to provisions of the UCC shall include all successor provisions under any subsequent version or amendment to any Article of the UCC.

SECTION 2. GRANT OF SECURITY.

Grant of Security. Each Grantor hereby grants to the Collateral Agent for its benefit and for the benefit of the other Secured Parties, a security interest in and continuing lien on all of such Grantor's right, title and interest in, to and under all personal property of such Grantor including, but not limited to the following, in each case whether now owned or existing or hereafter acquired or arising and wherever located (all of which being hereinafter collectively referred to as the **"Collateral"**):

(a) Accounts;

(b) Chattel Paper;

(c) Documents;

(d) General Intangibles;

(e) Goods;

(f) Instruments;

(g) Insurance;

(h) Intellectual Property;

(i) Investment Related Property;

(j) Letter of Credit Rights;

(k) Money;

(l) Receivables and Receivable Records;

(m) Commercial Tort Claims;

(n) to the extent not otherwise included above, all Collateral Records, Collateral Support and Supporting Obligations relating to any of the foregoing; and

to the extent not otherwise included above, all Proceeds, products, accessions, rents and profits of or in respect of any of the foregoing.

Intercreditor Agreement. Notwithstanding anything to the contrary contained in this Agreement, the priorities with respect to all security interests granted to the Collateral Agent hereunder and under the other Credit Documents and to the Term Collateral Agent under the Term Security Agreement and the other Term Credit Documents shall be governed by the terms and provisions of the Intercreditor Agreement. In the event of any conflict between the terms of the Intercreditor Agreement and this Agreement, the terms of the Intercreditor Agreement shall govern and control.

Certain Limited Exclusions. Notwithstanding anything herein to the contrary, in no event shall the security interest granted under Section 2.1 hereof attach to (a) any lease, license, contract, property rights or agreement to which any Grantor is a party or any of its rights or interests thereunder if and for so long as the grant of such security interest shall constitute or result in (i) the abandonment, invalidation or unenforceability of any right, title or interest of any Grantor therein or (ii) in a breach or termination pursuant to the terms of, or a default under, any such lease, license, contract property rights or agreement (other than to the extent that any such term would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the UCC (or any successor provision or provisions) of any relevant jurisdiction or any other applicable law (including the Bankruptcy Code) or principles of equity), provided however that, in the case of either (i) or (ii) above, such security interest shall attach immediately at such time as the condition causing such abandonment, invalidation or unenforceability shall be remedied and to the extent severable, shall attach immediately to any portion of such Lease, license, contract, property rights or agreement that does not result in any of the consequences specified in (i) or (ii) above; or (b) any of the outstanding capital stock of a Controlled Foreign Corporation in excess

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of 66% of the voting power of all classes of capital stock of such Controlled Foreign Corporationentitled to vote; provided that immediately upon the amendment of the Tax Code to allow the pledge of a greater percentage of the voting power of capital stock in a Controlled Foreign Corporation without adverse tax consequences, the Collateral shall include, and the security interest granted by each Grantor shall attach to, such greater percentage of capital stock of each Controlled Foreign Corporation.

SECTION 3. SECURITY FOR OBLIGATIONS; GRANTORS REMAIN LIABLE.

Security for Obligations. This Agreement secures, and the Collateral is collateral security for, the prompt and complete payment or performance in full when due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including the payment of amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. §362(a) (and any successor provision thereof)), of all Obligations with respect to every Grantor (the **"Secured Obligations"**).

Continuing Liability Under Collateral. Notwithstanding anything herein to the contrary, (i) each Grantor shall remain liable for all obligations under the Collateral and nothing contained herein is intended or shall be a delegation of duties to the Collateral Agent or any Secured Party, (ii) each Grantor shall remain liable under each of the agreements included in the Collateral, including, without limitation, any agreements relating to Pledged Partnership Interests or Pledged LLC Interests, to perform all of the obligations undertaken by it thereunder all in accordance with and pursuant to the terms and provisions thereof and neither the Collateral Agent nor any Secured Party shall have any obligation or liability under any of such agreements by reason of or arising out of this Agreement or any other document related thereto nor shall the Collateral Agent nor any Secured Party have any obligation to make any inquiry as to the nature or sufficiency of any payment received by it or have any obligation to take any action to collect or enforce any rights under any agreement included in the Collateral, including, without limitation, any agreements relating to Pledged Partnership Interests or Pledged LLC Interests, and (iii) the exercise by the Collateral Agent of any of its rights hereunder shall not release any Grantor from any of its duties or obligations under the contracts and agreements included in the Collateral.

SECTION 4. REPRESENTATIONS AND WARRANTIES AND COVENANTS.

4.1 Generally.

(a) Representations and Warranties. Each Grantor hereby represents and warrants, on the Closing Date and on each Credit Date, that:

(i) it owns the Collateral purported to be owned by it or otherwise has the rights it purports to have in each item of Collateral and, as to all Collateral whether now existing or hereafter acquired, will continue to own or have such rights in each item of the Collateral, in each case free and clear of any and all Liens, rights or claims of all other Persons other than Permitted Liens;

(ii) it has indicated on Schedule 4.1(A)(as such schedule may be amended or supplemented from time to time): (A) the type of organization of such Grantor, (B) the jurisdiction of organization of such Grantor, (C) its organizational identification number, if any, and (D) the jurisdiction where the chief executive office or

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its sole place of business is, and for the one-year period preceding the date hereof has been, located;

(iii) the full legal name of such Grantor is as set forth on Schedule 4.1(A) and it has not done in the last five (5) years, and does not do, business under any other name (including any trade-name or fictitious business name) except for those names set forth on Schedule 4.1(B) (as such schedule may be amended or supplemented from time to time);

(iv) except as provided on Schedule 4.1(C), it has not changed its name, jurisdiction of organization, chief executive office or sole place of business (or principal residence if such Grantor is a natural person) or its corporate structure in any way (e.g., by merger, consolidation, change in corporate form or otherwise) within the past five (5) years;

(v) upon the filing of all UCC financing statements naming each Grantor as "debtor" and the Collateral Agent as "secured party" and describing the Collateral in the filing offices set forth opposite such Grantor's name on Schedule 4.1(D) hereof (as such schedule may be amended or supplemented from time to time), upon execution of a control agreement, in form and substance satisfactory to the Collateral Agent, with respect to any Deposit Account, upon consent of the issuer with respect to Letter of Credit Rights, and to the extent not subject to Article 9 of the UCC, upon recordation of the security interests granted hereunder in Patents, Trademarks and Copyrights in the applicable intellectual property registries, including but not limited to the United States Patent and Trademark Office and the United States Copyright Office, the security interests granted to the Collateral Agent hereunder constitute valid and perfected First Priority or Second Priority Liens (in accordance with the Intercreditor Agreement (subject in the case of priority only to Permitted Liens and to the rights of the United States government (including any agency or department thereof) with respect to United States government Receivables) on all of the Collateral;

(vi) other than the financing statements filed in favor of the Collateral Agent, no effective UCC financing statement, fixture filing or other instrument similar in effect under any applicable law covering all or any part of the Collateral is on file in any filing or recording office except for (A) financing statements for which proper termination statements have been delivered to the Collateral Agent for filing, (B) financing statements in favor of the Term Collateral Agent and (C) financing statements filed in connection with other Permitted Liens, and other than the filings in favor of the Collateral Agent and the Term Collateral Agent, no effective filing with respect to a Lien covering all or any part of the Collateral is on file with the United States Patent and Trademark Office or United States Copyright Office or any other Governmental Authority;

(vii) no authorization, approval or other action by, and no notice to or filing with, any Governmental Authority or regulatory body is required for either (A) the pledge or grant by any Grantor of the Liens purported to be created in favor of the Collateral Agent hereunder or (B) the exercise by Collateral Agent of any rights or remedies in respect of any Collateral (whether specifically granted or created hereunder or created or provided for by applicable law), except (1) for the filings contemplated by clause (vii) above and (2) as may be required, in connection with the disposition of any

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Investment Related Property, by laws generally affecting the offering and sale of Securities;

(viii) all information supplied by any Grantor with respect to any of the Collateral (in each case taken as a whole with respect to any particular Collateral) is accurate and complete in all material respects;

(ix) none of the Collateral constitutes, or is the Proceeds of, "farm products" (as defined in the UCC); and

(x) it does not own any "as extracted collateral" (as defined in the UCC) or any timber to be cut.

(b) Covenants and Agreements. Each Grantor hereby covenants and agrees that:

(i) except for the security interest created by this Agreement, it shall not create or suffer to exist any Lien upon or with respect to any of the Collateral, except the Lien of the Term Collateral Agent and other Permitted Liens, and such Grantor shall defend the Collateral against all Persons at any time claiming any interest therein;

(ii) it shall not change such Grantor's name, identity, corporate structure (e.g., by merger, consolidation, change in corporate form or otherwise), sole place of business (or principal residence if such Grantor is a natural person), chief executive office, type of organization or jurisdiction of organization unless it shall have (A) contemporaneously therewith notified the Collateral Agent in writing, by executing and delivering to the Collateral Agent a completed Pledge Supplement, substantially in the form of Exhibit A attached hereto, together with all Supplements to Schedules thereto, and (B) taken all actions necessary or advisable to maintain the continuous validity, perfection and the priority of the Collateral Agent's security interest in the Collateral intended to be granted and agreed to hereby;

(iii) upon such Grantor or any officer of such Grantor obtaining knowledge thereof, it shall promptly notify the Collateral Agent in writing of any event that has had or reasonably could be expected to materially and adversely affect the value of the Collateral or any significant portion thereof, the ability of any Grantor or the Collateral Agent to dispose of the Collateral or any portion thereof, or the rights and remedies of the Collateral Agent in relation thereto, including, without limitation, the levy of any legal process against the Collateral or any significant portion thereof that if left unbonded or not removed would result in an Event of Default;

(iv) it shall not take or permit any action which could impair the Collateral Agent's rights in the Collateral in any material respect; and

(v) it shall not sell, transfer or assign (by operation of law or otherwise) any Collateral except as permitted by, and in accordance with the Credit Agreement and the Term Credit Agreement.

Equipment and Inventory.

(a) Representations and Warranties. Each Grantor represents and warrants, on the Closing Date and on each Credit Date, that:

(i) all of the Equipment and Inventory (other than de minimis amounts of Equipment and Inventory not located in such locations in the ordinary course of business, Equipment and Inventory in transit between locations identified on Schedule 4.2 and Inventory in transit to Account Debtors) included in the Collateral is kept for the past four (4) years only at the locations specified in Schedule 4.2 (as such schedule may be amended or supplemented from time to time); and

(ii) subject to the provisions of Section 4.2(b)(iii), none of the Inventory or Equipment is in the possession of an issuer of a negotiable document (as defined in Section 7-104 of the UCC) therefor or otherwise in the possession of a bailee or a warehouseman.

(b) Covenants and Agreements. Each Grantor covenants and agrees that:

(i) it shall keep the Equipment, Inventory (other than de minimis amounts of Equipment and Inventory not located in such locations in the ordinary course of business, Equipment and Inventory in transit between locations identified on Schedule 4.2 and Inventory in transit to Account Debtors) and any Documents evidencing any Equipment and Inventory in the locations specified on Schedule 4.2 (as such schedule may be amended or supplemented from time to time) unless it shall have notified the Collateral Agent in writing, by executing and delivering to the Collateral Agent a completed Pledge Supplement, substantially in the form of Exhibit A attached hereto, together with all Supplements to Schedules thereto, contemporaneously with any change in locations, identifying such new locations and providing such other information in connection therewith as the Collateral Agent may reasonably request;

(ii) it shall not deliver any Document evidencing any Equipment and Inventory to any Person other than the issuer of such Document to claim the Goods evidenced therefor or the Collateral Agent or the purchaser of such Equipment or Inventory;

(iii) if any Equipment or Inventory with a fair market value of greater than $150,000 in the aggregate is in the possession or under the control of any third party, each Grantor shall join with the Collateral Agent in notifying the third party of the Collateral Agent's security interest and obtaining an acknowledgment from the third party that it is holding the Equipment and Inventory for the benefit of the Collateral Agent; provided, however, that following the occurrence and during the continuance of an Event of Default, each Grantor shall comply with this provision with respect to all Equipment and Inventory; and

(iv) with respect to any item of Equipment which is covered by a certificate of title under a statute of any jurisdiction under the law of which indication of a security interest on such certificate is required as a condition of perfection thereof, upon the reasonable request of the Collateral Agent, (A) provide information with respect to any such Equipment in excess of $40,000 individually or $150,000 in the aggregate, (B) execute and file with the registrar of motor vehicles or other appropriate authority in such jurisdiction an application or other document requesting the notation or other indication

of the security interest created hereunder on such certificate of title, and (C) deliver to the Collateral Agent copies of all such applications or other documents filed during such calendar quarter and copies of all such certificates of title issued during such calendar quarter indicating the security interest created hereunder in the items of Equipment covered thereby.

Receivables.

(a) Covenants and Agreements: Each Grantor hereby covenants and agrees that:

(i) it shall keep and maintain at its own cost and expense satisfactory and complete records of the Receivables, including, but not limited to, the originals of all documentation with respect to all Receivables and records of all payments received and all credits granted on the Receivables, all merchandise returned and all other dealings therewith;

(ii) it shall perform in all material respects all of its obligations with respect to the Receivables;

(iii) it shall not amend, modify, terminate or waive any provision of any material Receivable in any manner which could reasonably be expected to materially and adversely affect the value of such Receivable as Collateral other than, prior to the occurrence and during the continuance of an Event of Default, in the ordinary course of business as generally conducted by such Grantor. Following an Event of Default, other than in the ordinary course of business as generally conducted by it and except as otherwise provided in subsection (iv) below, such Grantor shall not (A) grant any extension or renewal of the time of payment of any Receivable, (B) compromise or settle any dispute, claim or legal proceeding with respect to any Receivable for less than the total unpaid balance thereof, (C) release, wholly or partially, any Person liable for the payment thereof, or (D) allow any credit or discount thereon; and

(iv) each Grantor shall continue to collect all amounts due or to become due to such Grantor under the Receivables and any Supporting Obligation and diligently exercise each material right it may have under any Receivable any Supporting Obligation or Collateral Support, in each case, at its own expense and consistent with such Grantor's reasonable business practice. Notwithstanding the foregoing, the Collateral Agent shall have the right at any time to require any Grantor to notify any Account Debtor of the Collateral Agent's security interest in the Receivables and any Supporting Obligation (and prior to the occurrence and continuance of an Event of Default, such notification may be on a "no name" basis) and, in addition, at any time following the occurrence and during the continuation of an Event of Default, the Collateral Agent may: (A) notify and direct, or require any Grantor to notify and direct, the Account Debtors under any Receivables to make payment of all amounts due or to become due to such Grantor thereunder directly to the Collateral Agent; (B) notify, or require any Grantor to notify, each Person maintaining a lockbox or similar arrangement to which Account Debtors under any Receivables have been directed to make payment to remit all amounts representing collections on checks and other payment items from time to time sent to or deposited in such lockbox or other arrangement directly to the Collateral Agent; and (C) enforce, at the expense of such Grantor, collection of any such Receivables and to adjust, settle or compromise the amount or payment thereof, in the

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same manner and to the same extent as such Grantor might have done. If the Collateral Agent notifies any Grantor that it has elected to collect the Receivables in accordance with the preceding sentence, any payments of Receivables received by such Grantor shall be forthwith (and in any event within two (2) Business Days) deposited by such Grantor in the exact form received, duly indorsed by such Grantor to the Collateral Agent if required, in a collateral account maintained under the sole dominion and control of the Collateral Agent, and until so turned over, all amounts and proceeds (including checks and other instruments) received by such Grantor in respect of the Receivables, any Supporting Obligation or Collateral Support shall be received in trust for the benefit of the Collateral Agent hereunder and shall be segregated from other funds of such Grantor and such Grantor shall not adjust, settle or compromise the amount or payment of any Receivable, or release wholly or partly any Account Debtor or obligor thereof, or allow any credit or discount thereon. The Collateral Agent may, at any time that the Collateral Agent is permitted to conduct a commercial finance examination pursuant to Section 5.6(b) of the Credit Agreement, in the Collateral Agent's own name, in the name of a nominee of the Collateral Agent, or in the name of any Grantor communicate (by mail, telephone, facsimile or otherwise) with the Account Debtors of any such Grantor, parties to contracts with any such Grantor and obligors in respect of Instruments of any such Grantor to verify with such Persons, to the Collateral Agent's satisfaction, the existence, amount, terms of, and any other matter relating to, Accounts, Instruments, Chattel Paper, payment intangibles and/or other Receivables.

Investment Related Property.

4.4.1 Investment Related Property Generally

(a) Covenants and Agreements. Each Grantor hereby covenants and agrees that:

(i) within 10 Business Days after the end of each calendar month, in the event it acquires rights in any Investment Related Property after the date hereof, it shall deliver to the Collateral Agent a completed Pledge Supplement, substantially in the form of Exhibit A attached hereto, together with all Supplements to Schedules thereto, reflecting such new Investment Related Property and all other Investment Related Property. Notwithstanding the foregoing, it is understood and agreed that the security interest of the Collateral Agent shall attach to all Investment Related Property immediately upon any Grantor's acquisition of rights therein and shall not be affected by the failure of any Grantor to deliver a supplement to Schedule 4.4 as required hereby;

(ii) except as provided in the next sentence, in the event such Grantor receives any dividends, interest or distributions on any Investment Related Property, or any securities or other property upon the merger, consolidation, liquidation or dissolution of any issuer of any Investment Related Property, then (A) such dividends, interest or distributions and securities or other property shall be included in the definition of Collateral without further action and (B) such Grantor shall immediately take all steps, if any, necessary or advisable to ensure the validity, perfection, priority and, if applicable, control, except, with respect to control, as otherwise permitted under Sections 4.4.1(b) or 4.4.4(c)(i) below, of the Collateral Agent over such Investment Related Property (including, without limitation, delivery thereof to the Collateral Agent) and pending any such action such Grantor shall be deemed to hold such dividends, interest, distributions,

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securities or other property in trust for the benefit of the Collateral Agent and shall segregate such dividends, distributions, Securities or other property from all other property of such Grantor. Notwithstanding the foregoing, so long as no Event of Default shall have occurred and be continuing, the Collateral Agent authorizes each Grantor to retain all ordinary cash dividends and distributions paid in the normal course of the business of the issuer and consistent with the past practice of the issuer and all scheduled payments of interest; and

(iii) each Grantor consents to the grant by each other Grantor of a Security Interest in all Investment Related Property to the Collateral Agent.

(b) Delivery and Control. Each Grantor agrees that with respect to any Investment Related Property in which it currently has rights it shall comply

with the provisions of this Section 4.4.1(b) on or before the Credit Date and with respect to any Investment Related Property hereafter acquired by such Grantor it shall comply with the provisions of this Section 4.4.1(b) promptly upon acquiring rights therein, in each case in form and substance satisfactory to the Collateral Agent. With respect to any Investment Related Property that is represented by a certificate or that is an "instrument" (other than any Investment Related Property (i) credited to a Securities Account or (ii) which is represented by a certificate or "instrument" and does not exceed $50,000 individually and $200,000 in the aggregate) it shall cause such certificate or instrument to be delivered to the Collateral Agent, indorsed in blank by an "effective indorsement" (as defined in Section 8-107 of the UCC), regardless of whether such certificate constitutes a "certificated security" for purposes of the UCC; provided, however, that following the occurrence and during the continuance of an Event of Default, it shall cause all such certificates or instruments to be delivered to the Collateral Agent. For the avoidance of doubt, the Grantor shall comply with Section 4.4.1(a)(i) regardless of any exception set forth in this Section 4.4.1(b). With respect to any Investment Related Property that is an "uncertificated security" for purposes of the UCC (other than any "uncertificated securities" credited to a Securities Account), it shall cause the issuer of such uncertificated security to either (A) register the Collateral Agent as the registered owner thereof on the books and records of the issuer or (B) execute an agreement substantially in the form of Exhibit B hereto, pursuant to which such issuer agrees to comply with the Collateral Agent's instructions with respect to such uncertificated security without further consent by such Grantor.

(c) Voting and Distributions.

(i) So long as no Event of Default shall have occurred and be continuing:

(A) except as otherwise provided under the covenants and agreements relating to Investment Related Property in this Agreement or elsewhere herein or in the Credit Agreement, each Grantor shall be entitled to exercise or refrain from exercising any and all voting and other consensual rights pertaining to the Investment Related Property or any part thereof for any purpose not inconsistent with the terms of this Agreement or the Credit Agreement; provided, no Grantor shall exercise or refrain from exercising any such right if the Collateral Agent shall have notified such Grantor that, in the Collateral Agent's reasonable judgment, such action would materially and adversely affect the value of the Investment Related Property or any part thereof; it being understood, however, that neither the voting by such Grantor of any Pledged Stock

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for, or such Grantor's consent to, the election of directors (or similar governing body) at a regularly scheduled annual or other meeting of stockholders or with respect to incidental matters at any such meeting, nor such Grantor's consent to or approval of any action otherwise permitted under this Agreement and the Credit Agreement, shall be deemed inconsistent with the terms of this Agreement or the Credit Agreement within the meaning of this Section 4.4(c)(i)(A); and

(B) the Collateral Agent shall promptly execute and deliver (or cause to be executed and delivered) to each Grantor all proxies, and other instruments as such Grantor may from time to time reasonably request for the purpose of enabling such Grantor to exercise the voting and other consensual rights when and to the extent which it is entitled to exercise pursuant to clause (A) above;

(ii) Upon the occurrence and during the continuation of an Event of Default and (except with regard to an Event of Default pursuant to Section 8.1(f) or 8.1(g) of the Credit Agreement) if the Collateral Agent has given written notice to the Grantor of its election to exercise its rights under this Agreement:

(A) all rights of each Grantor to exercise or refrain from exercising the voting and other consensual rights which it would otherwise be entitled to exercise pursuant hereto shall cease and all such rights shall thereupon become vested in the Collateral Agent who shall thereupon have the sole right to exercise such voting and other consensual rights; and

(B) in order to permit the Collateral Agent to exercise the voting and other consensual rights which it may be entitled to exercise pursuant hereto and to receive all dividends and other distributions which it may be entitled to receive hereunder: (1) each Grantor shall promptly execute and deliver (or cause to be executed and delivered) to the Collateral Agent all proxies, dividend payment orders and other instruments as the Collateral Agent may from time to time reasonably request and (2) each Grantor acknowledges that the Collateral Agent may utilize the power of attorney set forth in Section 6.1.

4.4.2 Pledged Equity Interests

(a) Representations and Warranties. Each Grantor hereby represents and warrants, on the Closing Date and on each Credit Date, that:

(i) Schedule 4.4(A) (as such schedule may be amended or supplemented from time to time) sets forth under the headings "Pledged Stock, "Pledged LLC Interests," "Pledged Partnership Interests" and "Pledged Trust Interests," respectively, all of the Pledged Stock, Pledged LLC Interests, Pledged Partnership Interests and Pledged Trust Interests owned by any Grantor and such Pledged Equity Interests constitute the percentage of issued and outstanding shares of stock, percentage of membership interests, percentage of partnership interests or percentage of beneficial interest of the respective issuers thereof indicated on such Schedule;

(ii) it is the record and beneficial owner of the Pledged Equity Interests free of all Liens, rights or claims of other Persons other than the lien of the Collateral Agent and the Term Collateral Agent and there are no outstanding warrants, options or other rights to purchase, or shareholder, voting trust or similar agreements outstanding with respect to, or property that is convertible into, or that requires the issuance or sale of, any Pledged Equity Interests;

(iii) without limiting the generality of Section 4.1(a)(vii), no consent of any Person including any other general or limited partner, any other member of a limited liability company, any other shareholder or any other trust beneficiary is necessary or desirable in connection with the creation, perfection or First Priority or Second Priority status, in accordance with the Intercreditor Agreement, of the security interest of the Collateral Agent in any Pledged Equity Interests or the exercise by the Collateral Agent of the voting or other rights provided for in this Agreement or the exercise of remedies in respect thereof;

(iv) none of the Pledged LLC Interests nor Pledged Partnership Interests are or represent interests in issuers that: (A) are registered as investment companies or (B) are dealt in or traded on securities exchanges or markets; and

(v) all of the Pledged LLC Interests and Pledged Partnership Interests are or represent interests in issuers that have opted to be treated as securities under the uniform commercial code of any jurisdiction.

(b) Covenants and Agreements. Each Grantor hereby covenants and agrees that:

(i) it shall comply in all material respects with all of its obligations under any partnership agreement or limited liability company agreement relating to Pledged Partnership Interests or Pledged LLC Interests and shall, except prior to the occurrence and during the continuance of an Event of Default, to the extent the relevant Grantor in the exercise of its reasonable business judgment otherwise elects, enforce all of its rights with respect to any Investment Related Property; and

(ii) each Grantor consents to the grant by each other Grantor of a security interest in all Investment Related Property to the Collateral

Agent and, without limiting the foregoing, consents to the transfer of any Pledged Partnership Interest and any Pledged LLC Interest to the Collateral Agent or its nominee following an Event of Default and to the substitution of the Collateral Agent or its nominee as a partner in any partnership or as a member in any limited liability company with all the rights and powers related thereto.

4.4.3 Pledged Debt

(a) Representations and Warranties. Each Grantor hereby represents and warrants, on the Closing Date and each Credit Date, that Schedule 4.4 (as such schedule may be amended or supplemented from time to time in accordance with the terms set forth herein) sets forth under the heading "Pledged Debt" all of the Pledged Debt owned by any Grantor and, to the knowledge of such Grantor, all of such Pledged Debt has been duly authorized, authenticated or issued, and delivered and, to such Grantor's knowledge, is the legal, valid and binding obligation

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of the issuers thereof and is not in default (other than with respect to issuers that are not Affiliates of any Grantor) and constitutes all of the issued and outstanding inter-company Indebtedness;

4.4.4 Investment Accounts

(a) Representations and Warranties. Each Grantor hereby represents and warrants, on the Closing Date and each Credit Date, that:

(i) Schedule 4.4 hereto (as such schedule may be amended or supplemented from time to time) sets forth under the headings "Securities Accounts" and "Commodities Accounts," respectively, all of the Securities Accounts and Commodities Accounts in which each Grantor has an interest. Each Grantor is the sole entitlement holder of each such Securities Account and Commodity Account, and such Grantor has not consented to, and is not otherwise aware of, any Person (other than the Term Collateral Agent) having "control" (within the meanings of Sections 8-106 and 9-106 of the UCC) over, or any other interest in, any such Securities Account or Commodity Account or securities or other property credited thereto;

(ii) Schedule 4.4 hereto (as such schedule may be amended or supplemented from time to time) sets forth under the headings "Deposit Accounts" all of the Deposit Accounts in which each Grantor has an interest. Each Grantor is the sole account holder of each such Deposit Account and such Grantor has not consented to, and is not otherwise aware of, any Person (other than the Term Collateral Agent) having either sole dominion and control (within the meaning of common law) or "control" (within the meanings of Section 9-104 of the UCC) over, or any other interest in, any such Deposit Account or any money or other property deposited therein; and

(iii) Except as otherwise permitted in Section 4.4.4(c) or as otherwise consented to by the Collateral Agent, each Grantor has taken all actions necessary or desirable, including those specified in Section 4.4.4(c), to: (A) establish Collateral Agent's "control" (within the meanings of Sections 8-106 and 9-106 of the UCC) over any portion of the Investment Related Property constituting Certificated Securities, Uncertificated Securities, Securities Accounts, Securities Entitlements or Commodities Accounts (each as defined in the UCC); (B) establish the Collateral Agent's "control" (within the meaning of Section 9-104 of the UCC) over all Deposit Accounts; and (C) deliver all Instruments, except as otherwise permitted by Section 4.4.1(b), to the Collateral Agent.

(b) Covenant and Agreement. Each Grantor hereby covenants and agrees with the Collateral Agent and each other Secured Party that it shall not close or terminate any Investment Account unless a successor or replacement account has been established with the consent of the Collateral Agent with respect to which successor or replacement account a control agreement has been entered into by the appropriate Grantor, Collateral Agent and securities intermediary or depository institution at which such successor or replacement account is to be maintained in accordance with the provisions of Section 4.4.4(c) (and except as otherwise provided in Section 4.4.4(c)).

(c) Delivery and Control

(i) With respect to any Investment Related Property consisting of Securities Accounts or Securities Entitlements, except for Securities Accounts or

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Securities Entitlements which do not exceed $100,000 in the aggregate (such amount inclusive of any amounts held in any Deposit Accounts that are not subject to control agreements), it shall cause the securities intermediary maintaining such Securities Account or Securities Entitlement to enter into an agreement, in form and substance satisfactory to the Collateral Agent, pursuant to which it shall agree to comply with the Collateral Agent's "entitlement orders" without further consent by such Grantor. With respect to any Investment Related Property that is a "Deposit Account," except for Deposit Accounts which do not exceed $100,000 in the aggregate (such amount inclusive of any amounts held in any Securities Accounts that are not subject to control agreements), it shall cause the depositary institution maintaining such account to enter into an agreement, in form and substance satisfactory to the Collateral Agent, pursuant to which the Collateral Agent shall have both sole dominion and control over such Deposit Account (within the meaning of the common law) and "control" (within the meaning of Section 9-104 of the UCC) over such Deposit Account. Each Grantor shall have entered into such control agreement or agreements with respect to: (A) any Securities Accounts, Securities Entitlements or Deposit Accounts that exist on the Credit Date, as of or prior to the Credit Date, and (B) any Securities Accounts, Securities Entitlements or Deposit Accounts that are created or acquired after the Credit Date, as of or prior to the deposit or transfer of any such Securities Entitlements or funds, whether constituting moneys or investments, into such Securities Accounts or Deposit Accounts; except that with respect to any (A) Securities Accounts or Securities Entitlements that exist on the Closing Date, such Grantor shall have entered into such control agreements no later than sixty (60) days after such Closing Date and (B) Deposit Accounts that exist on the Closing Date, such Grantor shall have entered into such control agreements no later than the Closing Date; and

(ii) in addition to the foregoing, if any issuer of any Investment Related Property is located in a jurisdiction outside of the United States, each Grantor shall take such additional actions, including, without limitation, causing the issuer to register the pledge on its books and records or making such filings or recordings, in each case as may be necessary or advisable, under the laws of such issuer's jurisdiction to insure the validity, perfection and priority of the security interest of the Collateral Agent. Upon the occurrence of an Event of Default, the Collateral Agent shall have the right, without notice to any Grantor, to transfer all or any portion of the Investment Related Property to its name or the name of its nominee or agent. In addition, upon the occurrence and during the continuation of an Event of Default, the Collateral Agent shall have the right at any time, without notice to any Grantor, to exchange any certificates or instruments representing any Investment Related Property for certificates or instruments of smaller or larger denominations.

4.5 Intellectual Property.

(a) Representations and Warranties. Except as disclosed in Schedule 4.5(H) (as such schedule may be amended or supplemented from time to time), each Grantor hereby represents and warrants, on the Closing Date and on each Credit Date, that:

(i) Schedule 4.5 (as such schedule may be amended or supplemented from time to time) sets forth a true and complete list of (A) all United States, state and foreign registrations of and applications for Patents, Trademarks (including all Internet domain names), and Copyrights owned by each Grantor and (B) all

Patent Licenses, Trademark Licenses, Trade Secret Licenses and Copyright Licenses material to the business of such Grantor;

(ii) it is the sole and exclusive owner of the entire right, title, and interest in and to all Intellectual Property listed on Schedule 4.5 (as such schedule may be amended or supplemented from time to time), and owns or has the valid right to use all other material Intellectual Property used in or necessary to conduct its business, and all Intellectual Property Collateral is free and clear of all Liens, claims, encumbrances and licenses, except for Permitted Liens and the licenses set forth on Schedule 4.5(B), (D), (F) and (G) (as each may be amended or supplemented from time to time);

(iii) all Intellectual Property Collateral listed on Schedule 4.5 and all other Intellectual Property Collateral that is material to the conduct of such Grantor's business, is subsisting and has not been adjudged invalid or unenforceable, in whole or in part, and each Grantor has performed all acts and has paid all renewal, maintenance, and other fees and taxes required to maintain each and every registration and application of Copyrights, Patents and Trademarks listed on Schedule 4.5 in full force and effect;

(iv) all registrations for Intellectual Property Collateral and all other Intellectual Property Collateral that is material to the Grantor's business is valid and enforceable (except as set forth in Section 4.5(b)(i)); no holding, decision, or judgment has been rendered in any action or proceeding before any court or administrative authority challenging the validity of, such Grantor's right to register, or such Grantor's rights to own or use, any such material Intellectual Property Collateral and no such action or proceeding is pending or, to the best of such Grantor's knowledge, threatened, except for such actions or proceedings that could not reasonably be expected to have a Material Adverse Effect;

(v) all registrations and applications for Copyright Collateral, Patent Collateral and Trademark Collateral are standing in the name of each Grantor, and none of the Trademark Collateral, Patent Collateral, Copyright Collateral or Trade Secret Collateral has been licensed by any Grantor to any Affiliate or third party, except as disclosed in Schedule 4.5(B), (D), (F), or (G) (as each may be amended or supplemented from time to time) and pursuant to non-exclusive licenses entered into in the ordinary course of business;

(vi) each Grantor has been using appropriate statutory notice of registration in connection with its use of registered Trademarks, proper marking practices in connection with the use of Patents, and appropriate notice of copyright in connection with the publication of Copyrights that are, in each case, material to the business of such Grantor;

(vii) each Grantor maintains standards of quality in the manufacture, distribution, and sale of all products sold, and in the provision of all services rendered, under or in connection with all Trademark Collateral that is material to the business of such Grantor and has taken all action necessary to insure that all licensees of the Trademark Collateral owned by such Grantor maintains such standards of quality adequate at minimum to prevent any of the Trademark Collateral from becoming invalid or unenforceable;

(viii) the conduct of the business of Grantor as currently conducted does not and will not infringe upon, violate, misappropriate or dilute any intellectual property of any third party which infringement, violation, misappropriation or dilution could reasonably be expected to have a Material Adverse Effect; no claim is pending or threatened that the use of any Intellectual Property owned or used by Grantor (or any of its respective licensees) violates the rights of any third party, except for claims that could not reasonably be expected to have a Material Adverse Effect;

(ix) to the best of each Grantor's knowledge, no third party is infringing upon or otherwise violating any rights in any Intellectual Property owned or used by such Grantor, where such infringement or violation could reasonably be expected to have a Material Adverse Effect; and

(x) no settlements or consents, covenants not to sue, nonassertion assurances, or releases have been entered into by any Grantor or to which any Grantor is bound that materially and adversely affects any Grantor's rights to own or use any Intellectual Property that is material to the business of such Grantor.

(b) Covenants and Agreements. Each Grantor hereby covenants and agrees as follows:

(i) it shall not do any act or omit to do any act whereby any of the Intellectual Property which is material to the business of any Grantor may lapse, or become abandoned, dedicated to the public or unenforceable, or which would adversely affect the validity, grant or enforceability of the security interest granted therein;

(ii) it shall not, with respect to any Trademarks which are material to the business of any Grantor, cease the use of any of such Trademarks or fail to maintain the level of the quality of products sold and services rendered under any of such Trademark at a level at least substantially consistent with the quality of such products and services as of the date hereof, and each Grantor shall use commercially reasonable efforts to insure that licensees of such Trademarks use such consistent standards of quality;

(iii) it shall not apply to register any Copyright in the United States Copyright Office without the prior written notice to the Collateral Agent, and the provision of details sufficient for the Collateral Agent to record its security interest in the United States Copyright Office;

(iv) it shall promptly notify the Collateral Agent if it knows or has reason to know that any item of the Intellectual Property that is material to the business of any Grantor may become (A) abandoned or dedicated to the public or placed in the public domain, (B) invalid or unenforceable, or (C) subject to any adverse determination or development (including the institution of proceedings) in any action or proceeding in the United States Patent and Trademark Office, the United States Copyright Office, any state registry, any foreign counterpart of the foregoing, or any court;

(v) it shall take all reasonable steps in the United States Patent and Trademark Office, the United States Copyright Office, any state registry or any foreign counterpart of the foregoing, to pursue all applications and maintain all registrations of each Trademark, Patent, and Copyright owned by any Grantor and

material to its business which is now or shall become included in the Intellectual Property Collateral;

(vi) in the event that any Intellectual Property owned by or exclusively licensed to any Grantor is infringed, misappropriated, or diluted by a third party, such Grantor shall promptly take all actions such Grantor determines is necessary or advisable in its reasonable business judgment to stop such infringement, misappropriation, or dilution and protect its rights in such Intellectual Property including, but not limited to, the initiation of a suit for injunctive relief and to recover damages;

(vii) it shall within ten (10) Business days after the end of each Fiscal Quarter report to the Collateral Agent (A) the filing of any

application to register any Intellectual Property Collateral with the United States Patent and Trademark Office, the United States Copyright Office, or any state registry or foreign counterpart of the foregoing (whether such application is filed by such Grantor or through any agent, employee, licensee, or designee thereof during such Fiscal Quarter), and (B) the registration of any Intellectual Property Collateral by any such office, in each case by executing and delivering to the Collateral Agent a completed Pledge Supplement, substantially in the form of Exhibit A attached hereto, together with all Supplements to Schedules thereto;

(viii) it shall, promptly upon the reasonable request of the Collateral Agent, execute and deliver to the Collateral Agent any document required to acknowledge, confirm, register, record, or perfect the Collateral Agent's interest in any and all parts of the Intellectual Property Collateral, whether now owned or hereafter acquired;

(ix) except with the prior written consent of the Collateral Agent or as permitted under the Credit Agreement or the Term Credit Agreement, each Grantor (i) shall not execute, and there will not be any filings with respect to a Lien on file in any public office, any financing statement or other document or instruments, except financing statements or other documents or instruments filed or to be filed in favor of the Collateral Agent or in connection with any other Permitted Lien and (ii) shall not sell, assign, transfer, grant any option, or create or suffer to exist any Lien upon or with respect to the Intellectual Property Collateral, except for the Lien created by and under this Agreement, the Term Security Agreement or the other Credit Documents;

(x) it shall hereafter use commercially reasonable efforts so as not to permit the inclusion in any contract to which it hereafter becomes a party of any provision that could reasonably be expected to materially impair or prevent the creation of a security interest in, or the assignment of, such Grantor's rights and interests in any Intellectual Property acquired under such contracts, except for non-exclusive licenses entered into in the ordinary course of business which restrict only the assignment of such license;

(xi) it shall take all steps reasonably necessary to protect the secrecy of all Trade Secrets, including, without limitation, entering into confidentiality agreements with employees and labeling and restricting access to confidential information and documents; and

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(xii) it shall use proper statutory notice in connection with its use of any of the Intellectual Property that is material to its business.

4.6 Commercial Tort Claims.

(a) Representations and Warranties. Each Grantor hereby represents and warrants, on the Closing Date and on each Credit Date, that Schedule 4.8 (as such schedule may be amended or supplemented from time to time) sets forth all known Commercial Tort Claims of each Grantor in excess of $250,000 individually or $500,000 in the aggregate; and

(b) Covenants and Agreements. Each Grantor hereby covenants and agrees that with respect to any known Commercial Tort Claim in excess of $250,000 individually or $500,000 in the aggregate hereafter arising it shall deliver to the Collateral Agent a completed Pledge Supplement, substantially in the form of Exhibit A attached hereto, together with all Supplements to Schedules thereto, identifying such new Commercial Tort Claims.

SECTION 5. FURTHER ASSURANCES; ADDITIONAL GRANTORS.

Further Assurances.

(a) Each Grantor agrees that from time to time, at the expense of such Grantor, that it shall promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that the Collateral Agent may reasonably request, in order to create and/or maintain the validity, perfection or priority of and protect any security interest granted hereby or to enable the Collateral Agent to exercise and enforce its rights and remedies hereunder with respect to any Collateral. Without limiting the generality of the foregoing, each Grantor shall:

(i) file such financing or continuation statements, or amendments thereto, and execute and deliver such other agreements, instruments, endorsements, powers of attorney or notices, as may be necessary or desirable, or as the Collateral Agent may reasonably request, in order to perfect and preserve the security interests granted or purported to be granted hereby;

(ii) take all actions necessary to ensure the recordation of appropriate evidence of the liens and security interest granted hereunder in the Intellectual Property with any intellectual property registry in which said Intellectual Property is registered or in which an application for registration is pending including, without limitation, the United States Patent and Trademark Office, the United States Copyright Office, the various Secretaries of State, and the foreign counterparts on any of the foregoing;

(iii) at any reasonable time, upon request by the Collateral Agent, allow inspection of the Collateral by the Collateral Agent, or persons designated by the Collateral Agent; and

(iv) at the Collateral Agent's request, appear in and defend any action or proceeding that may affect such Grantor's title to or the Collateral Agent's security interest in all or any part of the Collateral.

(b) Each Grantor hereby authorizes the Collateral Agent to file a Record or Records, including, without limitation, financing or continuation statements, and amendments thereto, in any jurisdictions and with any filing offices as the Collateral Agent may determine, in its sole discretion, are necessary or advisable to perfect the security interest granted to the Collateral Agent herein. Such financing statements may describe the Collateral in the same manner as described herein or may contain an indication or description of collateral that describes such property in any other manner as the Collateral Agent may determine, in its sole discretion, is necessary, advisable or prudent to ensure the perfection of the security interest in the Collateral granted to the Collateral Agent herein, including, without limitation, describing such property as "all assets" or "all personal property, whether now owned or hereafter acquired." Each Grantor shall furnish to the Collateral Agent from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as the Collateral Agent may reasonably request, all in reasonable detail.

(c) Each Grantor hereby authorizes the Collateral Agent to modify this Agreement after obtaining such Grantor's approval of or signature to such modification by amending Schedule 4.5 (as such schedule may be amended or supplemented from time to time) to include reference to any right, title or interest in any existing Intellectual Property or any Intellectual Property acquired or developed by any Grantor after the execution hereof or to delete any reference to any right, title or interest in any Intellectual Property in which any Grantor no longer has or claims any right, title or interest.

Additional Grantors. From time to time subsequent to the date hereof, additional Persons may become parties hereto as additional Grantors (each, an "Additional Grantor"), by executing a Pledge Supplement in the form attached hereto as Exhibit A and a Counterpart Agreement in accordance with the Credit Agreement. Upon delivery of any such Pledge Supplement to the Collateral Agent, notice of which is hereby waived by Grantors, each Additional Grantor shall be a Grantor and shall be as fully a party hereto as if Additional Grantor were an original signatory hereto. Each Grantor expressly agrees that its obligations arising hereunder shall not be affected or diminished by the addition or release of any other Grantor hereunder, nor by any election of Collateral Agent not to cause any Subsidiary of Company to become an Additional Grantor

hereunder. This Agreement shall be fully effective as to any Grantor that is or becomes a party hereto regardless of whether any other Person becomes or fails to become or ceases to be a Grantor hereunder.

SECTION 6. COLLATERAL AGENT APPOINTED ATTORNEY-IN-FACT.

Power of Attorney. Each Grantor hereby irrevocably appoints the Collateral Agent (such appointment being coupled with an interest) as such Grantor's attorney-in-fact, with full authority in the place and stead of such Grantor and in the name of such Grantor, the Collateral Agent or otherwise, from time to time in the Collateral Agent's discretion to take any action and to execute any instrument that the Collateral Agent may deem reasonably necessary or advisable to allow the Collateral Agent to undertake any action required to be undertaken by any Grantor hereunder and not so undertaken, and otherwise to accomplish the purposes of this Agreement, including, without limitation, the following:

(a) upon the occurrence and during the continuance of any Event of Default, to obtain and adjust insurance required to be maintained by such Grantor or paid to the Collateral Agent pursuant to the Credit Agreement;

(b) upon the occurrence and during the continuance of any Event of Default, to ask for, demand, collect, sue for, recover, compound, receive and give acquittance and receipts for moneys due and to become due under or in respect of any of the Collateral;

(c) upon the occurrence and during the continuance of any Event of Default, to receive, endorse and collect any drafts or other instruments, documents and chattel paper in connection with clause (b) above;

(d) upon the occurrence and during the continuance of any Event of Default, to file any claims or take any action or institute any proceedings that the Collateral Agent may deem necessary or desirable for the collection of any of the Collateral or otherwise to enforce the rights of the Collateral Agent with respect to any of the Collateral;

(e) to prepare and file any UCC financing statements against such Grantor as debtor;

(f) to prepare, sign, and file for recordation in any intellectual property registry, appropriate evidence of the lien and security interest granted herein in the Intellectual Property in the name of such Grantor as debtor;

(g) upon the occurrence and during the continuance of any Event of Default, to take or cause to be taken all actions necessary to perform or comply or cause performance or compliance with the terms of this Agreement, including, without limitation, access to pay or discharge Taxes and all penalties and interest related thereto or Liens (other than Permitted Liens) levied or placed upon or threatened against the Collateral, the legality or validity thereof and the amounts necessary to discharge the same to be determined by the Collateral Agent in its sole discretion, any such payments made by the Collateral Agent to become obligations of such Grantor to the Collateral Agent, due and payable immediately without demand; and

(h) upon the occurrence and during the continuance of any Event of Default, generally to sell, transfer, pledge, make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though the Collateral Agent were the absolute owner thereof for all purposes, and to do, at the Collateral Agent's option and such Grantor's expense, at any time or from time to time, all acts and things that the Collateral Agent deems reasonably necessary to protect, preserve or realize upon the Collateral and the Collateral Agent's security interest therein in order to effect the intent of this Agreement, all as fully and effectively as such Grantor might do.

No Duty on the Part of Collateral Agent or Secured Parties. The powers conferred on the Collateral Agent hereunder are solely to protect the interests of the Secured Parties in the Collateral and shall not impose any duty upon the Collateral Agent or any Secured Party to exercise any such powers. The Collateral Agent and the Secured Parties shall be accountable only for amounts that they actually receive as a result of the exercise of such powers, and neither they nor any of their officers, directors, employees or agents shall be responsible to any Grantor for any act or failure to act hereunder, except for their own gross negligence or willful misconduct.

SECTION 7. REMEDIES.

7.1 Generally.

(a) If any Event of Default shall have occurred and be continuing, the Collateral Agent may exercise in respect of the Collateral, in addition to all other rights and remedies provided for herein or otherwise available to it at law or in equity, all the rights and remedies of the Collateral Agent on default under the UCC (whether or not the UCC applies to the affected Collateral) to collect, enforce or satisfy any Secured Obligations then owing, whether by acceleration or otherwise, and also may pursue any of the following separately, successively or simultaneously:

(i) require any Grantor to, and each Grantor hereby agrees that it shall at its expense and promptly upon request of the Collateral Agent forthwith, assemble all or part of the Collateral as directed by the Collateral Agent and make it available to the Collateral Agent at a place to be designated by the Collateral Agent that is reasonably convenient to both parties;

(ii) enter onto the property where any Collateral is located and take possession thereof with or without judicial process;

(iii) prior to the disposition of the Collateral, store, process, repair or recondition the Collateral or otherwise prepare the Collateral for disposition in any manner to the extent the Collateral Agent deems appropriate; and

(iv) without notice except as specified below or under the UCC, sell, assign, lease, license (on an exclusive or nonexclusive basis) or otherwise dispose of the Collateral or any part thereof in one or more parcels at public or private sale, at any of the Collateral Agent's offices or elsewhere, for cash, on credit or for future delivery, at such time or times and at such price or prices and upon such other terms as the Collateral Agent may deem commercially reasonable.

(b) The Collateral Agent or any Secured Party may be the purchaser of any or all of the Collateral at any public or private (to the extent to the portion of the Collateral being privately sold is of a kind that is customarily sold on a recognized market or the subject of widely distributed standard price quotations) sale in accordance with the UCC and the Collateral Agent, as collateral agent for and representative of the Secured Parties, shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such sale made in accordance with the UCC, to use and apply any of the Secured Obligations as a credit on account of the purchase price for any Collateral payable by the Collateral Agent at such sale. Each purchaser at any such sale shall hold the property sold absolutely free from any claim or right on the part of any Grantor, and each Grantor hereby waives (to the extent permitted by applicable law) all rights of redemption, stay and/or appraisal which it now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted. Each Grantor agrees that, to the extent notice of sale shall be required by law, at least ten (10) days notice to such Grantor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Collateral Agent shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Collateral Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. Each Grantor agrees that it would not be commercially unreasonable for the Collateral Agent to dispose of

the Collateral or any portion thereof by using Internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capability of doing so, or that match buyers and sellers of assets. Each Grantor hereby waives any claims against the Collateral Agent arising

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by reason of the fact that the price at which any Collateral may have been sold at such a private sale was less than the price which might have been obtained at a public sale, even if the Collateral Agent accepts the first offer received and does not offer such Collateral to more than one offeree. If the proceeds of any sale or other disposition of the Collateral are insufficient to pay all the Secured Obligations, Grantors shall be liable for the deficiency and the fees of any attorneys employed by the Collateral Agent to collect such deficiency. Each Grantor further agrees that a breach of any of the covenants contained in this Section will cause irreparable injury to the Collateral Agent, that the Collateral Agent has no adequate remedy at law in respect of such breach and, as a consequence, that each and every covenant contained in this Section shall be specifically enforceable against such Grantor, and such Grantor hereby waives and agrees not to assert any defenses against an action for specific performance of such covenants except for a defense that no default has occurred giving rise to the Secured Obligations becoming due and payable prior to their stated maturities or that relate to non-waivable provisions of applicable law. Nothing in this Section shall in any way alter the rights of the Collateral Agent hereunder.

(c) The Collateral Agent may sell the Collateral without giving any warranties as to the Collateral. The Collateral Agent may specifically disclaim or modify any warranties of title or the like. This procedure will not be considered to adversely affect the commercial reasonableness of any sale of the Collateral.

(d) The Collateral Agent shall have no obligation to marshal any of the Collateral.

Application of Proceeds. Except as provided in the Intercreditor Agreement, all proceeds received by the Collateral Agent in respect of any sale, any collection from, or other realization upon all or any part of the Collateral shall be applied in full or in part by the Collateral Agent against, the Secured Obligations in the following order of priority: first, to the payment of all costs and expenses of such sale, collection or other realization, including reasonable compensation to the Collateral Agent and its agents and counsel, and all other expenses, liabilities and advances made or incurred by the Collateral Agent in connection therewith, and all amounts for which the Collateral Agent is entitled to indemnification hereunder (in its capacity as the Collateral Agent and not as a Lender) and all advances made by the Collateral Agent hereunder for the account of the applicable Grantor, and to the payment of all costs and expenses paid or incurred by the Collateral Agent in connection with the exercise of any right or remedy hereunder or under the Credit Agreement, all in accordance with the terms hereof or thereof; second, to pay interest on and then principal of any portion of (x) the Revolving Loans that Administrative Agent may have advanced on behalf of any Lender for which Administrative Agent has not then been reimbursed by such Lender or Company and (y) the amount of drawings honored by Issuing Bank under a Letter of Credit for which Issuing Bank has not then been reimbursed by any Lender or Company; third, to the extent of any excess of such proceeds, to the payment of all other Secured Obligations for the ratable benefit of the Lenders and the Lender Counterparties; and fourth, to the extent of any excess of such proceeds, to the payment to or upon the order of such Grantor or to whosoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

Sales on Credit. If Collateral Agent sells any of the Collateral on credit, the Secured Obligations will be credited only with payments actually made by purchaser and received by Collateral Agent and applied to indebtedness of the purchaser. In the event the purchaser fails to pay for the Collateral, Collateral Agent may resell the Collateral and the Secured Obligations shall be credited with proceeds of the sale.

7.4 Deposit Accounts.

If any Event of Default shall have occurred and be continuing, the Collateral Agent may apply the balance from any Deposit Account or instruct the bank at which any Deposit Account is maintained to pay the balance of any Deposit Account to or for the benefit of the Collateral Agent.

7.5 Investment Related Property.

Each Grantor recognizes that, by reason of certain prohibitions contained in the Securities Act and applicable state securities laws, the Collateral Agent may be compelled, with respect to any sale of all or any part of the Investment Related Property conducted without prior registration or qualification of such Investment Related Property under the Securities Act and/or such state securities laws, to limit purchasers to those who will agree, among other things, to acquire the Investment Related Property for their own account, for investment and not with a view to the distribution or resale thereof. Each Grantor acknowledges that any such private sale may be at prices and on terms less favorable than those obtainable through a public sale without such restrictions (including a public offering made pursuant to a registration statement under the Securities Act) and, notwithstanding such circumstances, each Grantor agrees that any such private sale shall be deemed to have been made in a commercially reasonable manner and that the Collateral Agent shall have no obligation to engage in public sales and no obligation to delay the sale of any Investment Related Property for the period of time necessary to permit the issuer thereof to register it for a form of public sale requiring registration under the Securities Act or under applicable state securities laws, even if such issuer would, or should, agree to so register it. If the Collateral Agent determines to exercise its right to sell any or all of the Investment Related Property, upon written request, each Grantor shall and shall cause each issuer of any Pledged Stock to be sold hereunder, each partnership and each limited liability company from time to time to furnish to the Collateral Agent all such information as the Collateral Agent may request in order to determine the number and nature of interest, shares or other instruments included in the Investment Related Property which may be sold by the Collateral Agent in exempt transactions under the Securities Act and the rules and regulations of the Securities and Exchange Commission thereunder, as the same are from time to time in effect.

7.6 Intellectual Property.

(a) Anything contained herein to the contrary notwithstanding, upon the occurrence and during the continuation of an Event of Default:

(i) the Collateral Agent shall have the right (but not the obligation) to bring suit or otherwise commence any action or proceeding in the name of any Grantor, the Collateral Agent or otherwise, in the Collateral Agent's sole discretion, to enforce any Intellectual Property Collateral, in which event such Grantor shall, at the request of the Collateral Agent, do any and all lawful acts and execute any and all documents required by the Collateral Agent in aid of such enforcement and such Grantor shall promptly, upon demand, reimburse and indemnify the Collateral Agent as provided in Section 10 hereof in connection with the exercise of its rights under this Section, and, to the extent that the Collateral Agent shall elect not to bring suit to enforce any Intellectual Property Collateral as provided in this Section, each Grantor agrees to use all reasonable measures, whether by action, suit, proceeding or otherwise, to prevent the infringement or other violation of any of such Grantor's rights in the Intellectual Property Collateral by others and for that purpose agrees to diligently maintain any action, suit or

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proceeding against any Person so infringing as shall be necessary to prevent such infringement or violation to the extent required under Section 4.5(b);

(ii) upon written demand from the Collateral Agent, each Grantor shall grant to the Collateral Agent any licenses, assignments or rights in any of such Grantor's right, title and interest in and to any Intellectual Property Collateral and shall execute and deliver to the Collateral Agent such documents as are necessary or appropriate for the Grantor or the Collateral Agent to continue, directly or indirectly, to produce, advertise and sell the products and services sold or delivered by such Grantor prior to such Event of Default;

(iii) within five (5) Business Days after written notice from the Collateral Agent, each Grantor shall use reasonable best efforts to continue, directly or indirectly, to produce, advertise and sell the products and services sold or delivered by such Grantor under or in connection with the Trademarks and Trademark Licenses; and

(iv) the Collateral Agent shall have the right to notify, or require each Grantor to notify, any obligors with respect to amounts due or to become due to such Grantor in respect of the Intellectual Property Collateral, of the existence of the security interest created herein, to direct such obligors to make payment of all such amounts directly to the Collateral Agent, and, upon such notification and at the expense of such Grantor, to enforce collection of any such amounts and to adjust, settle or compromise the amount or payment thereof, in the same manner and to the same extent as such Grantor might have done; including

(1) all amounts and proceeds (including checks and other instruments) received by Grantor in respect of amounts due to such Grantor in respect of the Intellectual Property Collateral or any portion thereof shall be received in trust for the benefit of the Collateral Agent hereunder, shall be segregated from other funds of such Grantor and shall be forthwith paid over or delivered to the Collateral Agent in the same form as so received (with any necessary endorsement) to be held as cash Collateral and applied as provided by Section 7.7 hereof; and

(2) Grantor shall not adjust, settle or compromise the amount or payment of any such amount or release wholly or partly any obligor with respect thereto or allow any credit or discount thereon.

(b) If (i) an Event of Default shall have occurred and, by reason of cure, waiver, modification, amendment or otherwise, no longer be continuing, (ii) no other Event of Default shall have occurred and be continuing, (iii) an assignment or other transfer to the Collateral Agent of any rights, title and interests in and to the Intellectual Property Collateral shall have been previously made and shall have become absolute and effective, and (iv) the Secured Obligations shall not have become immediately due and payable, upon the written request of any Grantor, the Collateral Agent shall promptly execute and deliver to such Grantor, at such Grantor's sole cost and expense, such assignments or other transfer as may be necessary to reassign to such Grantor any such rights, title and interests as may have been assigned to the Collateral Agent as aforesaid, subject to any disposition thereof that may have been made by the Collateral Agent; provided, after giving effect to such reassignment, the Collateral Agent's security interest granted pursuant hereto, as well as all other rights and remedies of the Collateral Agent granted hereunder, shall continue to be in full force and effect; and provided further, the

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rights, title and interests so reassigned shall be free and clear of any other Liens granted by or on behalf of the Collateral Agent and the Secured Parties.

(c) Solely for the purpose of enabling the Collateral Agent to exercise rights and remedies under this Section 7 and at such time as the Collateral Agent shall be lawfully entitled to exercise such rights and remedies, each Grantor hereby grants to the Collateral Agent, to the extent it has the right to do so, an irrevocable, nonexclusive license (exercisable without payment of royalty or other compensation to such Grantor), subject, in the case of Trademarks, to sufficient rights to quality control and inspection in favor of such Grantor to avoid the risk of invalidation of said Trademarks, to use, operate under, license, or sublicense any Intellectual Property now owned or hereafter acquired by such Grantor, and wherever the same may be located.

Cash Proceeds. In addition to the rights of the Collateral Agent specified in Section 4.3 with respect to payments of Receivables, upon the occurrence and during the continuation of an Event of Default and (except with regard to an Event of Default pursuant to Section 8.1(f) or 8.1(g) of the Credit Agreement) notice from the Collateral Agent of its intent to exercise its rights under this Section 7.7, all proceeds of any Collateral received by any Grantor consisting of cash, checks and other non-cash items (collectively, "**Cash Proceeds**") shall be held by such Grantor in trust for the Collateral Agent, segregated from other funds of such Grantor, and shall, forthwith upon receipt by such Grantor, unless otherwise provided pursuant to Section 4.4(a)(ii), be turned over to the Collateral Agent in the exact form received by such Grantor (duly indorsed by such Grantor to the Collateral Agent, if required) and held by the Collateral Agent in the Collateral Account. Any Cash Proceeds received by the Collateral Agent (whether from a Grantor or otherwise): if an Event of Default shall have occurred and be continuing, may, in the sole discretion of the Collateral Agent, (A) be held by the Collateral Agent for the ratable benefit of the Secured Parties, as collateral security for the Secured Obligations (whether matured or unmatured) and/or (B) then or at any time thereafter shall be applied by the Collateral Agent against the Secured Obligations in accordance with the terms hereof (except as otherwise provided in the Intercreditor Agreement).

SECTION 8. COLLATERAL AGENT.

The Collateral Agent has been appointed to act as Collateral Agent hereunder by Lenders and, by their acceptance of the benefits hereof, the other Secured Parties. The Collateral Agent shall be obligated, and shall have the right hereunder, to make demands, to give notices, to exercise or refrain from exercising any rights, and to take or refrain from taking any action (including, without limitation, the release or substitution of Collateral), solely in accordance with this Agreement, the Intercreditor Agreement and the Credit Agreement. In furtherance of the foregoing provisions of this Section, each Secured Party, by its acceptance of the benefits hereof, agrees that it shall have no right individually to realize upon any of the Collateral hereunder, it being understood and agreed by such Secured Party that all rights and remedies hereunder may be exercised solely by the Collateral Agent for the benefit of Secured Parties in accordance with the terms of this Section and the Intercreditor Agreement. Collateral Agent may resign at any time by giving thirty (30) days' prior written notice thereof to Lenders and the Grantors. Upon any such notice of resignation, Requisite Lenders shall have the right, upon five (5) Business Days' notice to the Collateral Agent, to appoint a successor Collateral Agent. If no successor shall have been so appointed by the Requisite Lenders and shall have accepted such appointment within thirty (30) days after the resigning Collateral Agent gives notice of its resignation, then the resigning Collateral Agent may, on behalf of the Secured Parties, appoint a successor Collateral Agent. Upon the acceptance of any appointment as Collateral Agent hereunder by a successor

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Collateral Agent, that successor Collateral Agent shall be deemed the Collateral Agent under this Agreement. After any retiring Collateral Agent's resignation hereunder as the Collateral Agent, the provisions of this Agreement and the Credit Agreement (including Section 9 thereof) shall inure to its benefit as to any actions taken or omitted to be taken by it under this Agreement while it was the Collateral Agent hereunder.

Grantors jointly and severally agree to indemnify the Collateral Agent and the other Secured Parties from and against any and all claims, losses and liabilities in any way relating to, growing out of or resulting from this Agreement and the transactions contemplated hereby (including, without limitation, enforcement of this Agreement), except to the extent such claims, losses or liabilities result solely from the Collateral Agent's or Secured Party's gross negligence or willful misconduct as finally determined by a court of competent jurisdiction. The obligations of Grantors in this Section 8 shall survive the termination of this Agreement and the discharge of the Secured Obligations.

SECTION 9. CONTINUING SECURITY INTEREST; TRANSFER OF LOANS.

This Agreement shall create a continuing security interest in the Collateral and shall remain in full force and effect until the payment in full of all Secured Obligations, the cancellation or termination of the Commitments and the cancellation or expiration of all outstanding Letters of Credit (or the cash collateralization of such Letters of Credit in an amount and manner reasonably satisfactory to the Collateral Agent), be binding upon each Grantor, its successors and assigns, and inure, together with the rights and remedies of the Collateral Agent hereunder, to the benefit of the Collateral Agent and its successors, transferees and assigns. Without limiting the generality of the foregoing, but subject to the terms of the Credit Agreement, any Lender may assign or otherwise transfer any Loans held by it to any other Person, and such other Person shall thereupon become vested with all the benefits in respect thereof granted to Lenders herein or otherwise. Upon the payment in full of all Secured Obligations, the cancellation or termination of the Commitments and the cancellation or expiration of all outstanding Letters of Credit (or the cash collateralization of such Letters of Credit in an amount and manner reasonably satisfactory to the Collateral Agent), the security interest granted hereby shall terminate hereunder and of record and all rights to the Collateral (other than such cash collateral) shall revert to Grantors. Upon any such termination the Collateral Agent shall, at Grantors' expense, execute and deliver to

Grantors such documents as Grantors shall reasonably request to evidence such termination. In addition, the Collateral Agent shall, at Grantors' expense, execute and deliver to Grantors any documents or instruments necessary to release any Lien in accordance with Section 9.8 of the Credit Agreement encumbering any item of Collateral that is the subject of a sale or other disposition of assets permitted under the Credit Agreement.

SECTION 10. STANDARD OF CARE; COLLATERAL AGENT MAY PERFORM.

The powers conferred on the Collateral Agent hereunder are solely to protect its interest in the Collateral and shall not impose any duty upon it to exercise any such powers. Except for the exercise of reasonable care in the custody of any Collateral in its possession and the accounting for moneys actually received by it hereunder, the Collateral Agent shall have no duty as to any Collateral or as to the taking of any necessary steps to preserve rights against prior parties or any other rights pertaining to any Collateral. The Collateral Agent shall be deemed to have exercised reasonable care in the custody and preservation of Collateral in its possession if such Collateral is accorded treatment substantially equal to that which the Collateral Agent accords its own property. Neither the Collateral Agent nor any of its directors, officers, employees or agents shall be liable for failure to demand, collect or realize upon all or any part of

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the Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Collateral upon the request of any Grantor or otherwise. If any Grantor fails to perform any agreement contained herein, the Collateral Agent may itself perform, or cause performance of, such agreement, and the expenses of the Collateral Agent incurred in connection therewith shall be payable by each Grantor under Section 10.2 of the Credit Agreement.

SECTION 11. MISCELLANEOUS.

Any notice required or permitted to be given under this Agreement shall be given in accordance with Section 10.1 of the Credit Agreement. No failure or delay on the part of the Collateral Agent in the exercise of any power, right or privilege hereunder or under any other Credit Document shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other power, right or privilege. All rights, powers and remedies existing under this Agreement and the other Credit Documents are cumulative and shall be in addition to and independent of all rights, powers and remedies existing by virtue of any statute or rule of law or in any of the other Credit Document. Any forbearance or failure to exercise, and any delay in exercising, any right, power or remedy hereunder shall not impair any such right, power or remedy or be construed to be a waiver thereof, nor shall it preclude the further exercise of any such right, power or remedy. In case any provision in or obligation under this Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby. All covenants hereunder shall be given independent effect so that if a particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or would otherwise be within the limitations of, another covenant shall not avoid the occurrence of a Default or an Event of Default if such action is taken or condition exists. This Agreement shall be binding upon and inure to the benefit of the Collateral Agent and Grantors and their respective successors and assigns. No Grantor shall, without the prior written consent of the Collateral Agent given in accordance with the Credit Agreement, assign any right, duty or obligation hereunder. This Agreement, the Intercreditor Agreement and the other Credit Documents embody the entire agreement and understanding between Grantors and the Collateral Agent and supersede all prior agreements and understandings between such parties relating to the subject matter hereof and thereof. This Agreement may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO ITS CONFLICTS OF LAW PRINCIPLES THEREOF.

[Signatures follow on next page]

IN WITNESS WHEREOF, each Grantor and the Collateral Agent have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first written above.

DOUGLAS DYNAMICS HOLDINGS, INC.

By: _____
Name:
Title:

DOUGLAS DYNAMICS, L.L.C.

By: _____
Name:
Title:

DOUGLAS DYNAMICS FINANCE COMPANY

By: _____
Name:
Title:

FISHER, LLC,

By: _____
Name:
Title:

JPMORGAN CHASE BANK, N.A.,
as Collateral Agent

By: _____
Name:
Title:

[*Signature Page to Revolving Pledge and Security Agreement*]

SCHEDULE 4.1
TO PLEDGE AND SECURITY AGREEMENT

GENERAL INFORMATION

(A) Full Legal Name, Type of Organization, Jurisdiction of Organization, Chief Executive Office/Sole Place of Business (or Residence if Grantor is a Natural Person) and Organizational Identification Number of each Grantor:

Full Legal Name	Type of Organization	Jurisdiction of Organization	Chief Executive Office/Sole Place of Business (or Residence if Grantor is a Natural Person)	Organization I.D.#

(B) Other Names (including any Trade-Name or Fictitious Business Name) under which each Grantor has conducted business for the past five (5) years:

Full Legal Name	Trade Name or Fictitious Business Name

(C) Changes in Name, Jurisdiction of Organization, Chief Executive Office or Sole Place of Business (or Principal Residence if Grantor is a Natural Person) and Corporate Structure within past five (5) years:

Name of Grantor	Date of Change	Description of Change

(D) Agreements pursuant to which any Grantor is found as debtor within past five (5) years:

Name of Grantor	Description of Agreement

(E) Financing Statements:

Name of Grantor	Filing Jurisdiction(s)

SCHEDULE 4.2
TO PLEDGE AND SECURITY AGREEMENT

Name of Grantor	Location of Equipment and Inventory

SCHEDULE 4.4
TO PLEDGE AND SECURITY AGREEMENT

INVESTMENT RELATED PROPERTY

(A) Pledged Stock:

Grantor	Stock Issuer	Class of Stock	Certificated (Y/N)	Stock Certificate No.	Par Value	No. of Pledged Stock	% of Outstanding Stock of the Stock Issuer

Pledged LLC Interests:

Grantor	Limited Liability Company	Certificated (Y/N)	Certificate No. (if any)	No. of Pledged Units	% of Outstanding LLC Interests of the Limited Liability Company

Pledged Partnership Interests:

Grantor	Partnership	Type of Partnership Interests (e.g., general or limited)	Certificated (Y/N)	Certificate No. (if any)	% of Outstanding Partnership Interests of the Partnership

Pledged Trust Interests:

Grantor	Trust	Class of Trust Interests	Certificated (Y/N)	Certificate No. (if any)	% of Outstanding Trust Interests of the Trust

Pledged Debt:

Grantor	Issuer	Original Principal Amount	Outstanding Principal Balance	Issue Date	Maturity Date

Securities Account:

Grantor	Share of Securities Intermediary	Account Number	Account Name

Commodities Accounts:

Grantor	Name of Commodities Intermediary	Account Number	Account Name

Deposit Accounts:

Grantor	Name of Depositary Bank	Account Number	Account Name

(B)

Name of Grantor	Date of Acquisition	Description of Acquisition

SCHEDULE 4.5
TO PLEDGE AND SECURITY AGREEMENT

Name of Grantor

INTELLECTUAL PROPERTY

(A) Copyrights

(B) Copyright Licenses

(C) Patents

(D) Patent Licenses

(E) Trademarks

(F) Trademark Licenses

(G) Trade Secret Licenses

(H) Intellectual Property Exceptions

EXHIBIT A
TO PLEDGE AND SECURITY AGREEMENT

PLEDGE SUPPLEMENT

This **PLEDGE SUPPLEMENT**, dated [mm/dd/yy], is delivered by **[NAME OF GRANTOR]** a **[NAME OF STATE OF ORGANIZATION]** [Corporation] (the **"Grantor"**) pursuant to the ABL Pledge and Security Agreement, dated as of May 21, 2007 (as it may be from time to time amended, restated, modified or supplemented, the "Security Agreement"), among Douglas Dynamics Holdings, Inc., a Delaware corporation, Douglas Dynamics, L.L.C., a Delaware limited liability company, Fisher, LLC, a Delaware limited liability company and Douglas Dynamics Finance Company, the other Grantors named therein, and JPMorgan Chase Bank, N.A., as the Collateral Agent. Capitalized terms used herein not otherwise defined herein shall have the meanings ascribed thereto in the Security Agreement.

Grantor hereby confirms the grant to the Collateral Agent set forth in the Security Agreement of, and does hereby grant to the Collateral Agent, a security interest in all of Grantor's right, title and interest in and to all Collateral to secure the Secured Obligations, in each case whether now or hereafter existing or in which Grantor now has or hereafter acquires an interest and wherever the same may be located. Grantor represents and warrants that the attached Supplements to Schedules accurately and completely set forth all additional information required pursuant to the Security Agreement and hereby agrees that such Supplements to Schedules shall constitute part of the Schedules to the Security Agreement, and agrees to be bound by all of the provisions of the Security Agreement applicable to any "Grantor".

IN WITNESS WHEREOF, Grantor has caused this Pledge Supplement to be duly executed and delivered by its duly authorized officer as of **[mm/dd/yy]**.

[NAME OF GRANTOR]

By: _____
Name:
Title:

SUPPLEMENT TO SCHEDULE 4.1
TO PLEDGE AND SECURITY AGREEMENT

Additional Information:

(A) Full Legal Name, Type of Organization, Jurisdiction of Organization, Chief Executive Office/Sole Place of Business (or Residence if Grantor is a Natural Person) and Organizational Identification Number of each Grantor:

Full Legal Name	Type of Organization	Jurisdiction of Organization	Chief Executive Office/Sole Place of Business (or Residence if Grantor is a Natural Person)	Organization I.D.#

(B) Other Names (including any Trade-Name or Fictitious Business Name) under which each Grantor has conducted business for the past five (5) years:

Full Legal Name	Trade Name or Fictitious Business Name

(C) Changes in Name, Jurisdiction of Organization, Chief Executive Office or Sole Place of Business (or Principal Residence if Grantor is a Natural Person) and Corporate Structure within past five (5) years:

Name of Grantor	Date of Change	Description of Change

(D) Agreements pursuant to which any Grantor is found as debtor within past five (5) years:

Name of Grantor	Description of Agreement

(E) Financing Statements:

Name of Grantor	Filing Jurisdiction(s)

SUPPLEMENT TO SCHEDULE 4.2
TO PLEDGE AND SECURITY AGREEMENT

Additional Information:

Name of Grantor	Location of Equipment and Inventory

SUPPLEMENT TO SCHEDULE 4.4
TO PLEDGE AND SECURITY AGREEMENT

Additional Information:

(A)

Pledged Stock:

Pledged Partnership Interests:

Pledged LLC Interests:

Pledged Trust Interests:

Pledged Debt:

Securities Account:

Commodities Accounts:

Deposit Accounts:

(B)

Name of Grantor	Date of Acquisition	Description of Acquisition

SUPPLEMENT TO SCHEDULE 4.5
TO PLEDGE AND SECURITY AGREEMENT

Additional Information:

(A) Copyrights

(B) Copyright Licenses

(C) Patents

(D) Patent Licenses

(E) Trademarks

(F) Trademark Licenses

(G) Trade Secret Licenses

(H) Intellectual Property Exceptions

EXHIBIT B
TO PLEDGE AND SECURITY AGREEMENT

UNCERTIFICATED SECURITIES CONTROL AGREEMENT

This Uncertificated Securities Control Agreement dated as of , 200 among (the "**Pledgor**"), JPMorgan Chase Bank, N.A., as collateral agent for the Secured Parties (as defined in the ABL Pledge and Security Agreement dated as of May 21, 2007, among the Pledgor, the other Grantors party thereto and the Collateral Agent (the "**Security Agreement**")) and the Secured Parties (as defined in the Term Pledge and Security Agreement, dated as of May 21, 2007, among the Debtor, the other Grantors party thereto and the Collateral Agent), (the "**Collateral Agent**") and , a corporation (the "**Issuer**"). Capitalized terms used but not defined herein shall have the meaning assigned in the Security Agreement. All references herein to the "**UCC**" shall mean the Uniform Commercial Code as in effect in the State of New York.

Section 1. Registered Ownership of Shares. The Issuer hereby confirms and agrees that as of the date hereof the Pledgor is the registered owner of shares of the Issuer's [common] stock (the "**Pledged Shares**") and the Issuer shall not change the registered owner of the Pledged Shares without the prior written consent of the Collateral Agent or in connection with a disposition permitted by the Credit Agreement.

Section 2. Instructions. If at any time the Issuer shall receive instructions originated by the Collateral Agent relating to the Pledged Shares, the Issuer shall comply with such instructions without further consent by the Pledgor or any other person.

Section 3. Additional Representations and Warranties of the Issuer. The Issuer hereby represents and warrants to the Collateral Agent:

(a) It has not entered into, and until the termination of this agreement will not enter into, any agreement with any other person relating the Pledged Shares pursuant to which it has agreed to comply with instructions issued by such other person; and

(b) It has not entered into, and until the termination of this agreement will not enter into, any agreement with the Pledgor or the Collateral Agent purporting to limit or condition the obligation of the Issuer to comply with Instructions as set forth in Section 2 hereof.

(c) Except for the claims and interest of the Collateral Agent and of the Pledgor in the Pledged Shares, the Issuer does not know of any claim to, or interest in, the Pledged Shares. If any person asserts any lien, encumbrance or adverse claim (including any writ, garnishment, judgment, warrant of attachment, execution or similar process) against the Pledged Shares, the Issuer will promptly notify the Collateral Agent and the Pledgor thereof.

(d) This Uncertificated Securities Control Agreement is the valid and legally binding obligation of the Issuer.

Section 4. Choice of Law. This Agreement shall be governed by the laws of the State of New York.

Section 5. Conflict with Other Agreements. In the event of any conflict between this Agreement (or any portion thereof) and any other agreement now existing or hereafter entered into, the terms of this Agreement shall prevail. No amendment or modification of this Agreement or waiver of any right hereunder shall be binding on any party hereto unless it is in writing and is signed by all of the parties hereto.

Section 6. Voting Rights. Until such time as the Collateral Agent shall otherwise instruct the Issuer in writing, the Pledgor shall have the right to vote the Pledged Shares.

Section 7. Successors; Assignment. The terms of this Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective corporate successors or heirs and personal representatives who obtain such rights solely by operation of law. The Collateral Agent may assign its rights hereunder only with the express written consent of the Issuer and by sending written notice of such assignment to the Pledgor.

Section 8. Indemnification of Issuer. The Pledgor and the Collateral Agent hereby agree that (a) the Issuer is released from any and all liabilities to the Pledgor and the Collateral Agent arising from the terms of this Agreement and the compliance of the Issuer with the terms hereof, except to the extent that such liabilities arise from the Issuer's gross negligence or willful misconduct and (b) the Pledgor, its successors and assigns shall at all times indemnify and save harmless the Issuer from and against any and all claims, actions and suits of others arising out of the terms of this Agreement or the compliance of the Issuer with the terms hereof, except to the extent that such arises from the Issuer's gross negligence or willful misconduct, and from and against any and all liabilities, losses, damages, costs, charges, counsel fees and other expenses of every nature and character arising by reason of the same, until the termination of this Agreement.

Section 9. Notices. Any notice, request or other communication required or permitted to be given under this Agreement shall be in writing and deemed to have been properly given when delivered in person, or when sent by telecopy or other electronic means and electronic confirmation of error free receipt is received or two (2) days after being sent by certified or registered United States mail, return receipt requested, postage prepaid, addressed to the party at the address set forth below.

Pledgor: **[INSERT ADDRESS]**
Attention:
Telecopier:

Collateral Agent: 111 East Wisconsin Ave., Floor 15
Milwaukee, WI 53202-4815
Attention: Michael A. Hintz, Account Executive - ABL
Telephone: 414-977-6652
Telecopier: 414-977-6666

with a copy to:

Skadden, Arps, Slate, Meagher & Flom LLP
333 West Wacker Drive, Suite 2100
Chicago, IL 60606
Attention: Seth E. Jacobson
Telephone: 312-407-0700
Telecopier: 312-407-0411

Issuer: **[INSERT ADDRESS]**
Attention:
Telecopier:

Any party may change its address for notices in the manner set forth above.

Section 10. Termination. The obligations of the Issuer to the Collateral Agent pursuant to this Control Agreement shall continue in effect until the security interests of the Collateral Agent in the Pledged Shares have been terminated pursuant to the terms of the Security Agreement and the Collateral Agent has notified the Issuer of such termination in writing. The Collateral Agent agrees to provide Notice of Termination in substantially the form of Exhibit A hereto to the Issuer upon the request of the Pledgor on or after the termination of the Collateral Agent's security interest in the Pledged Shares pursuant to the terms of the Security Agreement. The termination of this Control Agreement shall not terminate the Pledged Shares or alter the obligations of the Issuer to the Pledgor pursuant to any other agreement with respect to the Pledged Shares.

Section 11. Counterparts. This Agreement may be executed in any number of counterparts, all of which shall constitute one and the same instrument, and any party hereto may execute this Agreement by signing and delivering one or more counterparts.

[NAME OF PLEDGOR]

By: _____
Name:
Title:

JPMORGAN CHASE BANK, N.A.,
as Collateral Agent

By: _____
Name:
Title:

[NAME OF ISSUER]

By: _____
Name:
Title:

Exhibit A

[Letterhead of Collateral Agent]

[Date]

[Name and Address of Issuer]

Attention:

Re: Termination of Control Agreement

You are hereby notified that the Uncertificated Securities Control Agreement between you, [the Pledgor] and the undersigned (a copy of which is attached) is terminated and you have no further obligations to the undersigned pursuant to such Agreement. Notwithstanding any previous instructions to you, you are hereby instructed to accept all future directions with respect to Pledged Shares (as defined in the Uncertificated Control Agreement) from [the Pledgor]. This notice terminates any obligations you may have to the undersigned with respect to the Pledged Shares, however nothing contained in this notice shall alter any obligations which you may otherwise owe to [the Pledgor] pursuant to any other agreement.

You are instructed to deliver a copy of this notice by facsimile transmission to [insert name of Pledgor].

Very truly yours,

JPMORGAN CHASE BANK, N.A.,
as Collateral Agent

By: _____
Name:
Title:

EXHIBIT J

MORTGAGE

**MORTGAGE, ASSIGNMENT OF LEASES,
RENTS AND PROFITS AND SECURITY AGREEMENT**

DOUGLAS DYNAMICS, L.L.C.

Mortgagor

to

JPMORGAN CHASE BANK, N.A.
in its capacity as Collateral Agent for the Secured Parties
111 East Wisconsin Ave., Floor 15
Milwaukee, WI 53202-4815

Mortgagee

DATED: As of May 21, 2007

Premises located in:
City of Rockland, County of Knox, State of Maine

Record and Return to:
Skadden Arps Slate Meagher & Flom LLP
300 South Grand Avenue
Los Angeles, California 90071
Attn: Eric Lee, Esq.

INDEX

MORTGAGE, ASSIGNMENT OF LEASES, RENTS AND PROFITS AND SECURITY AGREEMENT

THIS MORTGAGE, ASSIGNMENT OF LEASES, RENTS AND PROFITS AND SECURITY AGREEMENT(this **"Mortgage"**) made as of this 21st day of May, 2007 by **DOUGLAS DYNAMICS, L.L.C.**, a Delaware limited liability company having an office at 7777 North 73rd Street, Milwaukee, Wisconsin 53223 (the **"Mortgagor"**), to **JPMORGAN CHASE BANK, N.A.** (**"JPMorgan"**), as collateral agent (in such capacity, and together with its successors and assigns, the **"Mortgagee"**), having an office at 111 East Wisconsin Ave., Floor 15, Milwaukee, WI 53202-4815, Attention: Michael A. Hintz, Account Executive — ABL, for the Secured Parties (as such term and other capitalized terms used but not otherwise defined herein are defined in the Credit Agreement, defined below).

W I T N E S S E T H:

WHEREAS, Mortgagor is the owner of the fee interest in those certain parcels of land lying and being situated in the City of Rockland, Knox County, Maine, as more particularly described in Exhibit A attached hereto;

WHEREAS, Mortgagor, Fisher, LLC, a Delaware limited liability company ("**Fisher**") and Douglas Dynamics Finance Company, a Delaware corporation ("**DD Finance**"), as Borrowers, Douglas Dynamics Holdings, Inc., a Delaware corporation ("**Holdings**"), as Guarantor, the banks and financial institutions having Revolving Loan Commitments (as defined therein) or listed on the signature pages thereof (together with their respective successors and assigns, each individually referred to herein as a "**Lender**" and collectively as "**Lenders**"), Credit Suisse, Cayman Islands Branch, as sole bookrunner, sole lead arranger, syndication agent, documentation agent and administrative agent for the Lenders ("**ABL Administrative Agent**"), and JPMorgan, as collateral agent for the Lenders, have entered into that certain Credit and Guaranty Agreement, dated as of May 21, 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the **"Credit Agreement"**), pursuant to which Lenders have agreed to make, and Mortgagee has agreed to administer, certain credit facilities in an aggregate amount not to exceed $60,000,000, which extensions of credit shall be used for the purposes permitted under the Credit Agreement, upon the terms and conditions contained in the Credit Agreement; and

WHEREAS, Mortgagor has agreed to execute and deliver to Mortgagee this Mortgage in order to secure Mortgagor's performance of Mortgagor's obligations under the Credit Agreement and under any of the other Credit Documents;

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and other good and valuable consideration, including Mortgagee's entering into the Credit Agreement, the receipt and legal sufficiency of which are hereby expressly acknowledged by all parties, to secure the full and complete payment and performance of the Obligations, including Mortgagor's performance of Mortgagor's

obligations pursuant to the Credit Agreement, this Mortgage and the other Credit Documents, Mortgagor and Mortgagee hereby agree as follows:

Mortgagor does hereby grant, pledge, mortgage, warrant, sell, transfer, assign, and convey unto Mortgagee subject only to the Permitted Liens and Existing Liens (defined below), all of its right, title and interest in the following (collectively, the **"Property"**):

A. All that certain land located in the City of Rockland, Knox County, Maine,and more particularly described in Exhibit A annexed hereto and made a part

hereof (collectively, the **"Land"**).

B. All the buildings, structures and improvements, now or at any time hereafter erected on the Land or any part thereof (collectively, the**"Buildings"**).

C. All machinery, apparatus, equipment, personal property and fixtures of every kind and nature whatsoever now or hereafter located in, on or about any one or more of the Buildings or upon the Land, or attached to or used or useable in connection with the operation or maintenance of the Land or any one or more of the Buildings, or any part thereof, and now owned or hereafter acquired (collectively, the **"Building Equipment"**; the Land, the Buildings and the Building Equipment being hereafter sometimes collectively referred to as the **"Premises"**).

D. All right, title and interest of Mortgagor, whether now owned or hereafter acquired, in and to any opened or proposed avenues, streets, roads, public places, sidewalks, alleys, strips or gores of land, in front of or adjoining the Land or any one or more of the Buildings and all easements, tenements, hereditament, appurtenances, rights and rights of way, public or private, pertaining or belonging to the Land or any one or more of the Buildings.

E. All insurance proceeds and all awards and payments, subject to applicable provisions of this Mortgage, including interest thereon, and the right to receive the same, which may be made in respect of all or any part of any of the Premises or any estate or interest therein or appurtenant thereto, as a result of damage to or destruction of all or any part of any of the Premises, the exercise of the right of condemnation or eminent domain, the closing of, or the alteration of the grade of, any street on or adjoining the Land, or any other injury to or decrease in the value of all or any part of any of the Premises.

F. All right, title and interest of Mortgagor in and to any and all present and future Leases (as defined inParagraph 47) of all or any part of the Premises, and in and to the rents, issues and profits payable thereunder and cash or securities deposited thereunder as lessees' security deposits.

G. All franchises, permits, licenses and rights therein respecting the use, occupation and operation of the Premises or the activities conducted thereon or therein.

H. All right, title and interest of Mortgagor in and to any minerals, oil or gas located on, under or appurtenant to the Land.

I. All right, title and interest of Mortgagor in and to any tax refunds with respect to the Premises.

J. To the extent assignable, all of Mortgagor's interest in and to all agreements, contracts, certificates, instruments and other documents, now or hereafter entered into, pertaining to the construction, operation or management of the Premises and all right, title and interest of Mortgagor therein (collectively, the **"Contracts"**).

K. All of Mortgagor's interest in and to all easements, rights, licenses, privileges and appurtenances including, without limitation, development and air rights now or hereafter belonging or in any way appertaining to the Land.

L. All of the estate and rights of Mortgagor now or hereafter acquired in and to land lying in streets, roads, ways and alleys, open or proposed, adjoining or contiguous to the Land.

M. The rents, issues and profits of any of the foregoing.

TO HAVE AND TO HOLD the Property unto Mortgagee, its successors and assigns, forever. Provided, that if (i) Mortgagor shall perform all obligations hereunder and (ii) the Obligations (including, without limitation, certain credit facilities in an aggregate amount not to exceed $120,000,000, all as further described in the Credit Agreement, and any "Future Advances" and "Contingent Obligations" referred to in Section 50 of this Mortgage) are paid in full, the Commitments are cancelled or terminated and all outstanding Letters of Credit are cancelled or have expired, then this Mortgage shall be released without warranty, at the cost and request of Mortgagor.

AND MORTGAGOR COVENANTS, REPRESENTS AND WARRANTS TO AND FOR THE BENEFIT OF MORTGAGEE AND THE SECURED PARTIES AS FOLLOWS:

1. Payment of Obligations and Performance of Covenants and Agreements Mortgagor shall pay or perform the Obligations when due in accordance with the provisions of the Credit Agreement, this Mortgage, and the other Credit Documents and perform the covenants and agreements of Mortgagor set forth in the Credit Documents.

2. Title to Property Mortgagor represents and warrants that (a) it owns good and marketable fee simple title to the Premises, (b) it has the good and unrestricted right, full power and lawful authority to make this Mortgage in accordance with the terms hereof, (c) Mortgagor has obtained any and all consents and approvals necessary or required for the making of this Mortgage, and the making of this Mortgage will not violate any contract or agreement to which Mortgagor is a party or by which the Property is bound, and (d) the Premises is free of all liens, encumbrances, adverse claims and other defects of title whatsoever except those items listed on Exhibit B annexed hereto and made a part hereof (collectively, the **"Existing Liens"**) and Permitted Liens. Mortgagor does hereby and shall forever warrant and defend its title to and interest in the Property and the validity and priority of the lien of this Mortgage, subject to the Existing

Liens and the Permitted Liens, to Mortgagee and the Secured Parties, their respective successors and assigns, against all claims and demands whatsoever of any Person or Persons. As of the date hereof, there are no defenses or offsets to this Mortgage or to the Obligations.

3. Intercreditor Agreement Notwithstanding anything herein to the contrary, and regardless of the priority of recordation of this Mortgage, the lien and security interests granted to the Mortgagee pursuant to this Mortgage and the exercise of any right or remedy by such Mortgagee hereunder are subject to the provisions of that certain Intercreditor Agreement, dated as of May 21, 2007 (the "**Intercreditor Agreement**"), by and among Mortgagor, Fisher, DD Finance, Holdings, Mortgagee, ABL Administrative Agent, and Credit Suisse, Cayman Islands Branch, in its capacities as collateral agent (together with its successors and assigns from time to time in such capacity, the "**Term Collateral Agent**") and administrative agent under the Term Loan Documents (as defined therein). In the event of any conflict between the terms of the Intercreditor Agreement and this Mortgage, the terms of the Intercreditor Agreement shall govern.

4. Future Advances Without limiting the generality of any other provision hereof, or the terms and provisions of the Credit Agreement, the Obligations shall include, without limitation: (a) all existing indebtedness of Mortgagor to Mortgagee and/or any of the Secured Parties evidenced by any of the Credit Documents; (b) all future advances that may subsequently be made by Mortgagee and/or the Lenders as provided by any of the Credit Documents; and (c) all other indebtedness, if any, of Mortgagor to Mortgagee and/or any of the Secured Parties now due or to become due or hereafter contracted pursuant to any of the Credit Documents; provided that the maximum principal amount of all existing indebtedness, future advances, readvances of sums repaid and all other indebtedness secured hereby at any one time shall not exceed the total sum of $120,000,000 (exclusive of interest thereon, attorneys' fees and costs, taxes, insurance premiums and all other obligations hereunder).

5. Insurance

(a) Mortgagor shall maintain in full force and effect with respect to the Premises the insurance as required by Section 5.5 of the Credit Agreement.

(b) In the event of a foreclosure of this Mortgage or other action or proceeding taken by Mortgagee pursuant to this Mortgage, the purchaser of the Premises shall succeed to all of the rights of Mortgagor, including any right to unearned premiums, in and to all policies of insurance which Mortgagor is required to maintain under Paragraph 5(a) and to all proceeds of such insurance.

6. Impositions

(a) Mortgagor shall pay, not later than the final delinquency date thereof, all real estate taxes, personal property taxes, assessments, water rates and sewer rents, license fees, all charges which may be imposed for the use of vaults, chutes, areas and

other space beyond the lot line and abutting the public sidewalks in front of or adjoining the Land, and any other amounts which could be or become a lien upon or against the Property or any part thereof (collectively, the **"Impositions"**); provided, no such Imposition need be paid if it is being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, so long as adequate reserve or other appropriate provision, as shall be required in conformity with GAAP shall have been made therefor. Notwithstanding the foregoing, Mortgagor shall promptly, and in any event on demand, pay such contested Imposition if at any time all or any part of the Property shall be in danger of being foreclosed, sold, forfeited, or otherwise lost or if such contest shall be discontinued. During the continuance of any Event of Default, upon demand by Mortgagee, Mortgagor will pay the whole of any assessment (an **"Assessment"**) for local improvements which may be payable in installments, notwithstanding that such installments may not be due and payable at the time of such demand.

(b) Mortgagor shall, upon request of Mortgagee, deliver to Mortgagee, within twenty (20) days after the final delinquency date thereof of any Imposition or Assessment, receipts evidencing such payment or other proof of payment satisfactory to Mortgagee.

7. Maintenance and Alterations Mortgagor will maintain or cause to be maintained in good repair, working order and condition, ordinary wear and tear excepted, the Premises and from time to time will make or cause to made all appropriate repairs, renewals and replacements thereof.

8. Leasing Mortgagor represents that there are no Leases now in effect. Mortgagor shall not enter into any Lease of all or any part of any of the Premises without in each instance obtaining Mortgagee's prior written consent thereto, which consent shall not be unreasonably withheld, conditioned or delayed. Mortgagor shall deliver to Mortgagee a duplicate original of each Lease promptly after the execution thereof. At the option of Mortgagee, each Lease, and all renewals, replacements, extensions, and modifications thereof, and all rights of the tenant thereunder, shall be subject and subordinate to this Mortgage, and to each and every advance made or thereafter made hereunder or under the other Credit Documents and to all renewals, additions, amendments, supplements, modifications, consolidations, spreaders, replacements, and extensions of this Mortgage and shall contain provisions obligating the tenants thereunder to attorn to Mortgagee or any purchaser therefrom if Mortgagee or such purchaser succeeds to the interest of Mortgagor under such Lease. Mortgagor shall fully and promptly perform all of the obligations to be performed by the lessor under any and all Leases. Mortgagor shall enforce the performance and observance of each and every obligation to be performed or observed by the lessees under such Leases. Mortgagor shall give prompt notice to Mortgagee of (a) any notice received by Mortgagor of any default by the lessor under any Lease, (b) the commencement of any action or proceeding by any lessee the purpose of which shall be the cancellation of any Lease or a diminution or abatement of the rent payable thereunder, (c) any notice of default given by Mortgagor to the lessee under any Lease, or (d) the interposition by any lessee of any defense or counterclaim in any action or proceeding brought by Mortgagor against such lessee; and

Mortgagor will cause a copy of any process, pleading or notice received or served by Mortgagor in reference to any such action, defense or claim to be promptly delivered to Mortgagee. Mortgagor shall hold in trust all security deposits and advance rent given on account of any Lease, and deposit such security in a bank or trust company and shall not mingle such funds with other funds. Mortgagor shall repay or apply such funds only in accordance with the provisions of the applicable Leases.

9. Recording, Filing and Other Fees Mortgagor shall pay all recording and filing fees, all recording taxes, and all other costs and expenses in connection with the preparation, execution and recordation and other manner of perfection of this Mortgage and any other Credit Documents, and shall reimburse Mortgagee and each of the Secured Parties on demand for all costs and expenses of any kind incurred by Mortgagee or any of the Secured Parties in connection therewith (including, without limitation, reasonable attorneys' fees and disbursements). Mortgagor will, at any time on request of Mortgagee, execute or cause to be executed financing statements, continuation statements, or the like, in respect of any Building Equipment. Mortgagor shall pay all filing fees, including fees for filing continuation statements, in connection with such financing statements.

10. Taxes Imposed on Mortgagee and the Secured Parties Mortgagor shall pay all taxes (except income, inheritance and franchise taxes, taxes on the receipt of debt service payments, or taxes in lieu of any of the foregoing) imposed on Mortgagee or any of the Secured Parties by reason of its ownership of this Mortgage or any of the other Credit Documents.

11. Compliance with Laws, etc. Mortgagor shall comply with the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority (including Environmental Laws), noncompliance with which could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

12. Inspection Mortgagee and its authorized representatives shall have the right, at Mortgagee's option, at reasonable times during normal business hours and upon reasonable prior written notice, and as often as may be reasonably requested, to enter the Premises for the purpose of inspecting the same and any other Collateral.

13. Certificate of Mortgagor Mortgagor, upon request of Mortgagee or any of the Secured Parties, shall certify to Mortgagee or to such Secured Party or to any proposed assignee of or participant in this Mortgage, by an instrument in form reasonably satisfactory to Mortgagee or such Secured Party, duly acknowledged, the amount of the Obligations then owing, whether any offsets or defenses exist against payment or performance of all or any portion of the Obligations and anything else that Mortgagee or such Secured Party might reasonably request, within ten (10) days if the request is made personally, or within fifteen (15) days if the request is made by mail. Mortgagee, Secured Parties and any actual or proposed assignee of or participant in this Mortgage shall have the right to rely on such certification.

14. Condemnation

(a) Mortgagor shall give notice to Mortgagee upon Mortgagor receiving written notice of the commencement of any action or proceeding to take all or any part of the Premises by exercise of the right of condemnation or eminent domain or of any action or proceeding to close or to alter the grade of any street on or adjoining

the Land. Mortgagee may participate in any such action or proceeding in the name of Mortgagee or, whenever necessary, in the name of Mortgagor, and Mortgagor shall deliver to Mortgagee such instruments as Mortgagee shall request to permit such participation. Mortgagor shall not settle any such action or proceeding or agree to accept any award or payment without the prior written consent of Mortgagee (which consent shall not be unreasonably withheld, conditioned or delayed), and such award or payment and any interest thereon (hereinafter collectively called the **"Award"**) shall be applied in accordance withSection 2.14(b) and Section 2.15 of the Credit Agreement.

(b) The application of any Award toward payment of the Obligations shall not be deemed a waiver by Mortgagee or any of the Secured Parties of its right to receive payment of the balance of the Obligations in accordance with the provisions of the Credit Documents. Mortgagee shall have the right, but shall be under no obligation, to question the amount of the Award, and Mortgagee may accept the same without prejudice to the rights that Mortgagee may have to question such amount. In any such condemnation or eminent domain action or proceeding Mortgagee may be represented by attorneys selected by Mortgagee, and all sums paid by Mortgagee in connection with such action or proceeding (including, without limitation, reasonable attorneys' fees to the extent permitted by law) shall, on demand, be immediately due from Mortgagor to Mortgagee and the same shall be secured by this Mortgage.

(c) Notwithstanding any taking by condemnation or eminent domain, closing of, or alteration of the grade of, any street or other injury to or decrease in value of the Premises by any public or quasi-public authority or corporation, the unpaid principal portion of the Advances shall continue to bear interest at the rate payable pursuant to the applicable Credit Documents until the Award shall have been actually received by Mortgagee, and any reduction in the Obligations resulting from the application by Mortgagee of the Award shall be deemed to take effect only on the date of such receipt.

15. Restoration If the Buildings or the Building Equipment shall be damaged or destroyed, in whole or in part, by fire or other casualty, or by any taking in condemnation proceedings or the exercise of any right of eminent domain, Mortgagor shall promptly restore, replace or rebuild the same to as nearly as possible the value, quality and condition they were in immediately prior to such fire or other casualty or taking, with such alterations or changes as may be approved in writing by Mortgagee which approval shall not be unreasonably withheld or delayed, or apply the amount of any Award or insurance proceeds received with respect thereto, in each case in accordance with Section 2.14(b) and Section 2.15 of the Credit Agreement. Mortgagor shall give prompt notice to Mortgagee of any damage or destruction to the Buildings or Building Equipment by fire or other casualty, as well as the initiation of any condemnation or eminent domain proceeding affecting the same.

16. Default

(a) Any Event of Default under the Credit Agreement shall constitute an Event of Default hereunder and Mortgagee shall have all of the rights of the Administrative Agent and Collateral Agent under the Credit Agreement and all of the remedies hereunder.

(b) All notice and cure periods provided in the Credit Agreement shall run concurrently with any notice and cure periods provided under applicable law.

17. Mortgagee's Right to Perform Mortgagor's Covenants If there shall be an Event of Default, Mortgagee may, at its option, cure such Event of Default, and Mortgagee and its representatives shall have the right to enter the Premises to do so, and the amounts advanced by, and the other costs and expenses of, Mortgagee in curing such Event of Default, with interest from the time of the advances or payments at the Base Rate plus the Applicable Margin, shall, on demand, be immediately due from Mortgagor to Mortgagee and shall be secured by this Mortgage.

18. Contemporaneous Mortgages THIS MORTGAGE IS MADE CONTEMPORANEOUSLY WITH TWO (2) OTHER MORTGAGES OR DEEDS OF TRUST OF EVEN DATE HEREWITH (as any of the same may be amended, supplemented, restated, severed, consolidated, spread, partially released, increased or otherwise modified from time to time, the **"Contemporaneous Mortgages"**) GIVEN TO MORTGAGEE COVERING PROPERTY LOCATED IN THE STATES OF TENNESSEE AND WISCONSIN. The Contemporaneous Mortgages secure the Obligations. Upon the occurrence of an Event of Default, Mortgagee may proceed under this Mortgage and/or the Contemporaneous Mortgages against any of such property and/or the Property in one or more parcels and in such manner and order as Mortgagee shall elect. Mortgagor hereby irrevocably waives and releases, to the extent permitted by law, whether now or hereafter in force, any right to have the property and/or the Property covered by the Contemporaneous Mortgages marshalled upon any foreclosure of this Mortgage or the Contemporaneous Mortgages.

19. Appointment of Receiver After the occurrence and during the continuance of an Event of Default, Mortgagee may apply for the appointment of a receiver of the Rents (as defined in Paragraph 47), issues, and profits of all or any part of the Property from whatever source derived and thereupon it is hereby expressly covenanted and agreed that the court shall forthwith appoint such receiver with the usual powers and duties of receivers in like cases; and said appointment shall be made by the court ex parte as a matter of strict right to Mortgagee, without notice to or demand upon Mortgagor or any Person claiming through or under Mortgagor, and Mortgagee shall be entitled to the appointment of such receiver as a matter of right, to the extent not prohibited by applicable law, without consideration of the value of the Property as security for the amounts due to Mortgagee or the Secured Parties or the solvency of any Person liable for the payment of such amounts. Mortgagor hereby specifically waives the right to object to the appointment of a receiver as aforesaid and hereby expressly consents that such appointment shall be made ex parte and without notice to Mortgagor as an

admitted equity and as a matter of absolute right to Mortgagee. In order to maintain and preserve the Property and to prevent waste and impairment of its security, Mortgagee may, at its option, advance monies to the appointed receiver and all such sums advanced shall become secured obligations and shall bear interest from the date of such advance at the rate of interest specified in Section 2.9 of the Credit Agreement.

20. Intentionally Deleted

21. Judicial Foreclosure After the occurrence and during the continuance of an Event of Default, Mortgagee may institute an action of foreclosure, or take such other action as the law may allow, at law or in equity, for the enforcement hereof and realization on the Property or any other security which is herein or elsewhere provided for, and proceed thereon to final judgment and execution thereon for the entire principal then outstanding under the Credit Documents, with interest thereon at the rate stipulated in the Credit Documents to the date of default and thereafter at the default interest rate specified in Section 2.9 of the Credit Agreement together with all other sums secured by this Mortgage, all costs of suit, including, without limitation, the expenses which are described in Paragraphs 25 and 29, and interest at the default interest rate specified in Section 2.9 of the Credit Agreement on any judgment obtained by Mortgagee from and after the date of any judicial sale of any of the Property until actual payment. Upon any sale or sales made hereunder, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Mortgagee and/or any of the Secured Parties may bid for and acquire any of the Property or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting against the Obligations the net sales price after deducting therefrom the expenses of the sale and the costs of the action and any other sums which Mortgagee is authorized to deduct under this Mortgage. Except as otherwise provided in the Credit Agreement, the proceeds of such sale shall be applied first to the payment of the costs and charges of such sale, including, without limitation, Mortgagee's attorneys' fees, (to the extent permitted by law), and second to the payment of the Obligations, the surplus money, if any, to be paid to the Person(s) legally entitled thereto (including Mortgagor, to the extent so entitled, if at all). Upon the request of Mortgagee and to the extent not prohibited by applicable law, Mortgagor shall execute and file with the clerk of the court a legally sufficient waiver of any statutory waiting period with respect to the execution of a judgment obtained by Mortgagee in connection with any foreclosure proceedings. The obligation of Mortgagor to so execute and file such waiver shall survive the termination of this Mortgage. Following a foreclosure sale, the sheriff shall deliver to the purchaser the sheriff's deed (and bill of sale as to any personalty) conveying the property so sold without any covenant or warranty, express or implied.

22. Sale in Parcels In the event of a foreclosure of this Mortgage or upon any sale under this Mortgage pursuant to judicial proceedings or otherwise, the Property may be sold in one parcel and as an entirety or in such parcels, manner or order as Mortgagee in its sole discretion may select.

23. Notice Upon Acceleration Whenever Mortgagee in this Mortgage is given the option to accelerate the maturity of all or part of the Obligations upon the occurrence of an Event of Default, Mortgagee may, to the extent permitted by law, do so without prior notice or demand to or upon Mortgagor except as otherwise specifically provided herein.

24. Possession of Premises To the extent permitted by law, after the occurrence and during the continuance of an Event of Default, Mortgagee and its agents and any receiver appointed by a court are authorized to (a) take possession of the Premises, with or without legal action, and by force if necessary; (b) lease the Premises or make modifications to or cancel Leases; (c) maintain, repair, alter, and restore the Premises; (d) with or without taking possession, collect all Rents and profits payable under all Leases directly from the lessees thereunder upon notice to each such lessee that an Event of Default exists under this Mortgage accompanied by a demand on such lessee for the payment to Mortgagee of all Rents due and to become due under its Lease, and Mortgagor FOR THE BENEFIT OF MORTGAGEE AND EACH SUCH LESSEE hereby covenants and agrees that the lessee shall be under no duty to question the accuracy of Mortgagee's statement of default and shall unequivocally be authorized to pay said Rents to Mortgagee without regard to the truth of Mortgagee's statement of an Event of Default and notwithstanding notices from Mortgagor disputing the existence of an Event of Default such that the payment of rent by the lessee to Mortgagee pursuant to such a demand shall constitute performance in full of the lessee's obligation under the Lease for the payment of Rents by the lessee to Mortgagor; and (e) after deducting all costs of collection and administration expense, apply the net Rents and profits to the payment of Impositions, insurance premiums and all other carrying charges (including, without limitation, agents' compensation and fees and reasonable costs of counsel to the extent permitted by law, and receivers) and to the maintenance, repair or restoration of the Premises, or, except as otherwise provided in the Credit Agreement, on account and in reduction of the Obligations in such order and amounts as Mortgagee in Mortgagee's sole discretion may elect. Mortgagee shall be liable to account only for Rents and profits actually received by Mortgagee.

25. Expenses of Mortgagee and/or the Secured Parties All sums (including reasonable attorneys' fees and disbursements, to the extent permitted by law) paid by Mortgagee and/or any of the Secured Parties in connection with any litigation to prosecute or defend the rights and obligations created by this Mortgage, with interest thereon at the default interest rate specified in Section 2.9 of the Credit Agreement from the time of payment by Mortgagee and/or any of the Secured Parties shall, on demand, be immediately due from Mortgagor to Mortgagee and/or any such Secured Party and shall be added to and included in the Obligations and shall be secured by this Mortgage.

26. Mortgagor's Waivers

(a) Mortgagor, for itself and its successors and assigns, hereby irrevocably waives and releases, to the extent permitted by law, whether now or hereafter in force, (i) the benefit of any and all valuation and appraisement laws, (ii) any right of redemption whether statutory or otherwise, in respect of the Property, (iii) any applicable

homestead or dower laws, (iv) all exemption laws whatsoever and all moratoriums, extensions or stay laws or rules, or orders of court in the nature of any one or more of them, (v) any right to have any of the Property marshalled upon foreclosure of this Mortgage, (vi) the right to interpose any set-off, recoupment, counterclaim or cross-claim in any litigation in any court with respect to, in connection with, or arising out of this Mortgage or any of the other Credit Documents unless such set-off, recoupment, counterclaim or cross-claim could not, by reason of the applicable Federal or State procedural laws, be interposed, pleaded or alleged in any other action, and (vii) trial by jury in connection with any litigation arising out of this Mortgage or any of the other Credit Documents and any right it may have to claim or recover in any such litigation any special, exemplary, punitive or consequential damages or any damages other than, or in addition to, actual damages.

(b) Mortgagee, for itself and its successors and assigns, hereby irrevocably waives and releases, to the extent permitted by law, whether now or hereafter in force, trial by jury in connection with any litigation arising out of this Mortgage or any of the other Credit Documents.

27. Partial Foreclosure Mortgagee may from time to time, if permitted by law, take action to recover any sums, whether interest, principal or any other sums, required to be paid under this Mortgage or any other Credit Document as the same become due, without prejudice to the right of Mortgagee thereafter to bring an action of foreclosure, or any other action, for an Event of Default by Mortgagor existing when such earlier action was commenced. Mortgagee may also foreclose this Mortgage for any sums due under this Mortgage or any other Credit Document and the lien of this Mortgage shall continue to secure the balance of the Obligations due.

28. No Waiver; Rights Cumulative No failure or delay on the part of Mortgagee or any of the Secured Parties in the exercise of any power, right or privilege hereunder or under any other Credit Document shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other power, right or privilege. The rights, powers and remedies given to Mortgagee and each of the Secured Parties hereby are cumulative and shall be in addition to and independent of all rights, powers and remedies existing by virtue of any statute or rule of law or in any of the other Credit Documents. Any forbearance or failure to exercise, and any delay in exercising, any right, power or remedy hereunder shall not impair any such right, power or remedy or be construed to be a waiver thereof, nor shall it preclude the further exercise of any such right, power or remedy.

29. Attorneys' Fees If this Mortgage shall be foreclosed, or if any of the Credit Documents is placed in the hands of an attorney for collection or is collected through any court, including any bankruptcy court, there shall be included in the computation of the sums secured hereby, to the extent permitted by law, the amount of a reasonable fee for the services of the attorney retained by Mortgagee in the foreclosure action or proceeding, and all disbursements, costs, allowances and additional allowances provided by law.

30. Interest After Maturity The Obligations secured by this Mortgage shall bear interest from and after maturity, whether or not resulting from acceleration, at the default interest rate specified in Section 2.9 of the Credit Agreement, but this shall not constitute an extension of time for payment of the Obligations.

31. No Credit for Taxes Mortgagor shall not claim or demand or be entitled to any credit or credits on account of any of the sums secured hereby by reason of the Impositions assessed against all or any part of the Property or for any payments made on account thereof. No deductions shall be made or claimed from the taxable value of all or any part of the Premises by reason of this Mortgage.

32. Liens This Mortgage is and shall be maintained as a valid first lien on the Property subject only to any encumbrances created pursuant to the Credit Documents and the Existing Liens and the Permitted Liens, if any. Notwithstanding any provision in the Credit Documents to the contrary, Mortgagor shall not,

directly or indirectly, create or suffer or permit to be created, or to stand, against the Property or any portion thereof, or against the Rents, issues and profits therefrom, any lien, charge, mortgage, deed of trust, adverse claim or other encumbrance (herein collectively referred to as a **"lien"**), whether senior or junior in lien to this Mortgage, other than the lien of (i) this Mortgage and (ii) the Permitted Liens (including easements, rights-of-way, restrictions, encroachments, minor defects or irregularities in title and other similar charges, in each case which do not and will not interfere in any material respect with the use or value thereof; provided, however, that Mortgagor shall give Mortgagee at least twenty (20) days prior written notice of any Permitted Lien described in the parenthetical to clause (ii) above which is to be created after the date hereof together with a reasonably detailed description thereof; and provided, further, that nothing contained in this Paragraph shall require Mortgagor to pay any real estate taxes or other Impositions prior to the time when same are required to be paid under this Mortgage. Mortgagor will keep and maintain all of the Premises free from all liens of Persons supplying labor or materials relating to the construction, alteration, modification or repair of the Premises. If any such lien shall be filed against any of the Property, Mortgagor agrees to discharge the same of record (by payment, bonding or otherwise) within 10 days of notice of the filing thereof. No financing statement, conditional bill of sale or chattel mortgage shall be made or filed against any Building Equipment without the prior consent of Mortgagee and if at any time there should be any (with or without the consent of Mortgagee), then upon the occurrence and during the continuance of an Event of Default, all right, title and interest of Mortgagor in and to all deposits and payments made thereon are hereby assigned to Mortgagee.

33. Change in Taxation In the event of the enactment of or change in (including, without limitation, a change in interpretation of) any applicable law (a) deducting or allowing Mortgagor to deduct from the value of the Property for the purpose of taxation any lien or security interest thereon, (b) imposing, modifying or deeming applicable any reserve or special requirement against deposits in or for the account of, or loans by, or other liabilities of, or other assets held by Mortgagee or any of the Secured Parties, or (c) subjecting Mortgagee or any of the Secured Parties to any tax or changing the basis of taxation of mortgages, deeds of trust, or other liens or debts secured thereby,

or the manner of collection of such taxes, in each such case, so as to affect this Mortgage, the Obligations, Mortgagee or any of the Secured Parties, and the result is to increase the taxes imposed upon or the cost to Mortgagee or any of the Secured Parties of maintaining the Obligations, or to reduce the amount of any payments receivable hereunder or under the other Credit Documents, then, and in any such event, Mortgagor shall, on demand, pay to Mortgagee for the account of Mortgagee or any of the Secured Parties, as the case may be, such additional amounts as may be required to compensate for such increased costs or reduced amounts, provided that if any such payment or reimbursement shall be unlawful or would constitute usury under applicable law, then Mortgagee may, at its option, require Mortgagor to make a partial repayment of the Obligations in an amount equal to the then value of the Premises.

34. Assignment of Leases and Rents Mortgagor absolutely and unconditionally assigns to Mortgagee the Rents, issues and profits of the Premises as further security for the payment of the Obligations and Mortgagor grants to Mortgagee during the existence of an Event of Default the right to enter the Premises for the purpose of collecting the same and to let the Premises, or any part thereof, and, except as otherwise provided in the Credit Agreement, to apply said Rents, issues and profits, after payment of all necessary charges and expenses, on account of the Obligations. This assignment and grant shall continue in effect until the payment in full of the Obligations, the cancellation or termination of the Commitments and the cancellation or expiration of all outstanding Letters of Credit. Mortgagee hereby waives the right to enter the Premises for the purpose of collecting said Rents, issues and profits, and Mortgagor shall be entitled to collect, receive and use said Rents, issues and profits, until the occurrence and during the continuance of and Event of Default. During the continuance of any Event of Default, the right of Mortgagor to collect, receive and use said Rents, issues and profits, shall be revoked forthwith. Further, from and after delivery of written notice of such revocation, constructive possession of the Premises shall be vested in Mortgagee, and this assignment shall be activated and perfected. Notwithstanding the foregoing, this assignment shall also be activated and perfected upon Mortgagee's exercising, upon the occurrence and during the continuance of an Event of Default, any of the following remedies pursuant to this Mortgage: (i) taking actual possession of the Premises; (ii) moving or applying for the appointment of a receiver; (iii) filing or commencing an action to foreclose this Mortgage; or (iv) collecting the Rents directly from the tenant(s). Mortgagor shall, from time to time after request by Mortgagee, execute, acknowledge and deliver to Mortgagee, in form reasonably satisfactory to Mortgagee, separate assignments effectuating the foregoing. Neither Mortgagee nor the Secured Parties shall be obligated to perform or discharge any obligation or duty to be performed or discharged by Mortgagor under any Lease or other agreement affecting all or any part of the Premises, and Mortgagor hereby agrees to indemnify Mortgagee and the Secured Parties for and hold them harmless from, any and all liability arising from any such Lease or other agreement or any assignments thereof, and no assignment of any such Lease or other agreement shall place the responsibility for the control, care, management or repair of all or any part of the Premises upon Mortgagee or the Secured Parties, nor make Mortgagee or the other Secured Parties liable for any negligence in the management, operation, upkeep, repair or control of all or any part of the Premises resulting in injury, death or property damage. In addition, after the occurrence and during the continuance of

an Event of Default and following the giving of notice to Mortgagor, Mortgagor will pay monthly in advance to Mortgagee, or to any receiver appointed to collect said Rents, issues and profits, the fair and reasonable rental value for the use and occupancy of the Premises or of such part thereof as may be in the possession of Mortgagor, and upon default in any such payment will vacate and surrender the possession thereof to Mortgagee or to such receiver, and in default thereof may be evicted by summary or other proceedings.

35. Security Agreement It is the intention of the parties hereto that this instrument shall constitute a Security Agreement and a Financing Statement within the meaning of the Uniform Commercial Code as enacted in the state in which the Land is located with respect to the personalty and fixtures comprising a part of the Property, and that a security interest shall attach thereto for the benefit of Mortgagee, as secured party, to further secure the Obligations. Mortgagor hereby authorizes Mortgagee to file financing and continuation statements with respect to such collateral in which Mortgagor has a mortgageable interest, without the signature of Mortgagor whenever lawful, and upon request, Mortgagor shall promptly execute financing and continuation statements in form satisfactory to Mortgagee to further evidence and secure Mortgagee's interest in such collateral, and shall pay all filing fees in connection therewith. In the event of the occurrence and during the continuance of an Event of Default, Mortgagee, pursuant to the applicable provision of the Uniform Commercial Code, shall have the option of proceeding as to both real and personal property in accordance with its rights and remedies in respect of the real property, in which event the default provisions of the Uniform Commercial Code shall not apply. The parties agree that in the event Mortgagee elects to proceed with respect to collateral constituting personalty or fixtures separately from the real property, without demand, notice or advertisement whatsoever except that where an applicable statute requires reasonable notice of sale or the dispositions, the giving of ten (10) days' notice by Mortgagee to Mortgagor, shall be deemed to be reasonable notice thereof and Mortgagor waives any other notice with respect thereto.

36. No Release Neither Mortgagor nor any other Person now or hereafter obligated for the payment or performance of all or any portion of the Obligations shall be released from paying such Obligations and the lien of this Mortgage shall not be affected by reason of (a) the failure of Mortgagee or any of the Secured Parties to comply with any request of Mortgagor, or of any other Person so obligated, to take action to foreclose this Mortgage or otherwise enforce any of the provisions of this Mortgage or of any of the covenants and agreements of Mortgagor under the Credit Documents, (b) the release, regardless of consideration, of the whole or any part of the security held for the Obligations, (c) the release, regardless of consideration, of the obligations of any Person or Persons liable for payment or performance of all or any portion of the Obligations, or (d) any agreement or stipulation extending the time of payment or modifying the terms of any of the Credit Documents, and in the event of such agreement or stipulation, Mortgagor and all such other Persons shall continue to be liable under the Credit Documents, as amended by such agreement or stipulation, unless expressly released and discharged in writing by Mortgagee and the Secured Parties.

37. Notices All notices, consents and other communications provided for herein shall be sent to such Person's address as follows (or to such other address indicated in an unrevoked written notice from such Person given in accordance the terms of this Paragraph):

(a) if to Mortgagor, Douglas Dynamics, L.L.C., 7777 North 73rd Street, Milwaukee, WI 53223, Attention: Chief Executive Officer and President, Telecopy No.: (414) 354-8448, with a copy to Aurora Capital Group, 10877 Wilshire Boulevard, Suite 2100, Los Angeles, CA 90024, Attention: Secretary, Douglas Dynamics Holdings, Inc., Telecopier No.: (310) 824-2791, with a copy to Gibson, Dunn & Crutcher LLP, 333 S. Grand Avenue, Los Angeles, CA 90071, Attention: Jeff R. Hudson, Esq., Telecopy No.: 213-229-6332; and

(b) if to Mortgagee or Collateral Agent, at JPMorgan Chase Bank, N.A., 111 East Wisconsin Ave., Floor 15, Milwaukee, WI 53202-4815, Attention: Attention: Michael A. Hintz, Account Executive — ABL, Telecopy No.: 414-977-6666, with a copy to Skadden Arps Slate Meagher & Flom LLP, 333 West Wacker Drive, Suite 2100, Chicago, IL 60606, Attention: Seth E. Jacobson, Esq., Telecopy No.: (312) 407-0411; and

(c) if to any of the Secured Parties, at the address set forth below such Secured Party's name on the signature pages of the Credit Agreement.

Each notice hereunder shall be in writing and may be personally served, telexed or sent by telefacsimile or United States mail or courier service and shall be deemed to have been given when delivered in person or by courier service and signed for against receipt thereof, upon receipt of telefacsimile or telex, or three (3) Business Days after depositing it in the United States mail with postage prepaid and properly addressed; provided, no notice to Mortgagee shall be effective until received by Mortgagee.

38. Severability In case any provision in or obligation hereunder shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

39. Intentionally Deleted

40. Indemnification Against Liabilities Mortgagor will defend, indemnify, pay and hold harmless Mortgagee and the Secured Parties and their respective officers, partners, directors, trustees, employees, agents and Affiliates of Mortgagee and each of the Secured Parties from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind (including, without limitation, reasonable attorneys' fees and expenses) imposed upon or incurred by or asserted against Mortgagee and any of the Secured Parties by reason of (a) ownership of a mortgagee's or participating lender's interest in the Property, (b) any accident or injury to or death of Persons or loss of or damage to or loss of the use of property occurring on or about the Premises or any part thereof or the

adjoining sidewalks, curbs, vaults and vault spaces, if any, streets, alleys or ways, unless due to the willful misconduct of Mortgagee or such Secured Party, (c) any use, nonuse or condition of the Premises or any part thereof or the adjoining sidewalks, curbs, vaults and vault spaces, if any, streets, alleys or ways, (d) any failure on the part of Mortgagor to perform or comply with any of the terms of this Mortgage, (e) performance of any labor or services or the furnishing of any materials or other property in respect of the Premises or any part thereof made or suffered to be made by or on behalf of Mortgagor, (f) any negligence or tortious act on the part of Mortgagor or any of its agents, contractors, lessees, licensees or invitees, or (g) any work in connection with any alterations, changes, new construction or demolition of the Premises. All amounts payable to Mortgagee and the Secured Parties under this Paragraph shall be payable promptly on demand and shall be deemed indebtedness and Obligations secured by this Mortgage and any such amounts shall bear interest at the default interest rate specified in Section 2.9 of the Credit Agreement from the date of such demand. In case any action, suit or proceeding is brought against Mortgagor, Mortgagee and/or any of the Secured Parties by reason of any such occurrence, Mortgagor, upon request of Mortgagee or any of the Secured Parties will, at Mortgagor's expense, resist and defend such action, suit or proceeding or cause the same to be resisted or defended by counsel designated by Mortgagee or such Secured Party and approved by Mortgagor.

41. No Oral Changes This Mortgage and its provisions cannot be changed, waived, discharged or terminated orally but only by an agreement in writing, signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

42. Governing Law THE PROVISIONS OF THIS MORTGAGE REGARDING THE CREATION, PERFECTION AND ENFORCEMENT OF THE LIENS AND SECURITY INTERESTS HEREIN GRANTED SHALL BE GOVERNED BY AND CONSTRUED UNDER THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED. ALL OTHER PROVISIONS OF THIS MORTGAGE AND THE RIGHTS AND OBLIGATIONS OF MORTGAGOR AND MORTGAGEE SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPALS THEREOF.

43. Construction This Mortgage shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument or any portion thereof to be drafted.

44. Headings Paragraph headings herein are included herein for convenience of reference only and shall not constitute a part hereof for any other purpose or be given any substantive effect.

45. After Acquired Property All property of every kind which is hereafter acquired by Mortgagor which, by the terms hereof, is required or intended to be subjected to the lien of this Mortgage shall, immediately upon the acquisition thereof by

Mortgagor, and without any further giving of a deed of trust and/or mortgage, conveyance, assignment or transfer, become subject to the lien of this Mortgage.

46. Further Assurances Mortgagor shall execute, acknowledge and deliver to Mortgagee any documents and instruments which Mortgagee may reasonably request from time to time for the better assuring, conveying, assigning, transferring, confirming or perfecting of Mortgagee's security and rights under this Mortgage, in form and substance reasonably satisfactory to Mortgagee.

47. Definitions The following terms shall, for all purposes of this Mortgage, have the respective meanings herein specified unless the context otherwise requires and such meanings shall apply equally to the singular and plural forms of such defined terms unless a definition is provided herein for both the singular and plural form of such defined term:

(a) **"Lease"** shall mean every lease or occupancy agreement for the use or hire of all or any portion of the Premises, which shall be in effect at the date hereof or which shall hereafter be entered into by or on behalf of Mortgagor.

(b) **"Rents"** shall mean all rents, rent equivalents, moneys payable as damages or in lieu of rent or rent equivalents, royalties (including, without limitation, all oil and gas or other mineral royalties and bonuses), income, receivables, receipts, revenues, deposits (including, without limitation, security, utility and other deposits), accounts, cash, issues, profits, charges for services rendered, and other consideration of whatever form or nature received by or paid to or for the account of or benefit of Mortgagor or its agents or employees from any and all sources arising from or attributable to the Land and the Building, including, without limitation, all receivables, customer obligations, installment payment obligations and other obligations now existing or hereafter arising or created out of the sale, lease, sublease, license,

concession or other grant of the right of the use and occupancy of property, and proceeds, if any, from business interruption or other loss of income insurance.

48. Successors and Assigns The terms, covenants and provisions of this Mortgage shall apply to and be binding upon Mortgagor and the successors and assigns of Mortgagor and shall inure to the benefit of Mortgagee, the Secured Parties and their respective successors and assigns. All grants, covenants, terms, provisions, and conditions contained herein shall run with the Land.

49. Credit Agreement In the event of any inconsistency or conflict between the terms and provisions of the Credit Agreement and this Mortgage, the terms and provisions of the Credit Agreement shall control.

50. State Specific Provisions

(a) Applicability of Maine Law: Notwithstanding anything else contained herein to the contrary, where provisions contained in this Section 50 conflict with other provisions of this Mortgage, these provisions shall control.

(b) Statutory Condition: This Mortgage is given upon the STATUTORY CONDITION, which is incorporated herein by reference. To the extent that the provisions of this Mortgage and the provisions set forth in the Statutory Conditions conflict, the provisions of this Mortgage shall control to the extent permitted by applicable law.

(c) Statutory Power of Sale: If any Event of Default shall occur, the Mortgagee shall have the right to foreclose this Mortgage under any legal method of foreclosure in existence at the time or now existing, or under any other applicable law, including, without limitation, the **STATUTORY POWER OF SALE**, which is expressly incorporated herein by reference, to the extent authorized or allowed by any present or future law of the State of Maine. In connection therewith, Mortgagor acknowledges that this Mortgage secures a loan or loans for business and commercial purposes and that this Mortgage is given primarily for a business, commercial or agricultural purpose.

(d) Non-Waiver: Mortgagor agrees for itself, its successor and assigns, that the acceptance, before the expiration of the right of redemption and after the commencement of foreclosure proceedings of this Mortgage, of insurance proceeds, eminent domain awards, rents or anything else of value to be applied on or to the Secured Obligations by the Mortgagee, the Lenders or any person or party holding under Lender shall not constitute a waiver of such foreclosure by the Mortgagee or waiver of the failure of performance by the Mortgagor of any covenants or agreements contained herein, in the other Credit Documents, or in the Credit Agreement. This agreement by Mortgagor shall be that agreement referred to in 14 M.R.S.A. § 6204, as amended, as necessary to prevent such waiver of foreclosure. This agreement by Mortgagor is intended to apply to the acceptance and such applications of any such insurance proceeds, eminent domain awards, rents and other sums or anything else of value, whether the same shall be accepted from, or for the account of, Mortgagor or from any other sources whatsoever by the Mortgagee, or by any person or party holding under Mortgagee at any time or times in the future while any portion of the Obligations shall remain outstanding.

(e) Open-ended Mortgage; Limitations: This Mortgage is an open-end mortgage, which secures existing indebtedness, "Future Advances" "Contingent Obligations" and "Protective Advances" as such terms are defined in 33 M.R.S.A. § 505. The maximum aggregate amount of all debts or obligations secured by this Mortgage, including Future Advances and Contingent Obligations, but excluding Protective Advances, shall not at any time exceed the total amount of $120,000,000. The future advances secured hereby shall be made those advances made to or for the account of Mortgagor and may be made under the Credit Agreement and the Credit Documents, as the same may be amended, or may be made pursuant to promissory notes, line of credit agreements or other instruments evidencing such future advances which may be hereafter executed and delivered by Mortgagor to Mortgagee. In the event that any notice described in subsections 5(a) and 5(b) of 33 M.R.S.A. § 505 is recorded or is received by Mortgagee, any commitment, agreement or obligation to make future advances to or for the benefit of Mortgagor shall immediately cease.

(f) Financing Statement: This instrument constitutes a financing statement under Article 9-A of the Maine Uniform Commercial Code covering the Building Equipment, fixtures, and the other items and types of collateral included within the Property and described in this Mortgage. For purposes of this Section 50(f), the debtor is Mortgagor and the secured party is the Mortgagee. The mailing address of the secured party (Mortgagee) from which information concerning the security interest may be obtained and the mailing address of the debtor (Mortgagor), are set forth below:

Mortgagee:

JPMorgan Chase Bank, N.A., as Collateral Agent
111 East Wisconsin Ave., Floor 15
Milwaukee, WI 53202-4815
Attention: Michael A. Hintz, Account Executive — ABL

Mortgagor:

Douglas Dynamics, L.L.C.
7777 North 73rd Street
Milwaukee, WI 53223
Attention: Chief Executive Officer and President

(g) The employer identification number of Mortgagor is 42-1623692. The organization identification number of Mortgagor is 3781861.

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IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be executed under seal as of the day and year first above written.

Mortgagor:

DOUGLAS DYNAMICS, L.L.C.

By: _____
Name:
Title:

STATE OF
COUNTY OF , ss

On May , 2007, personally appeared before me, the above named , as of said Douglas Dynamics, L.L.C., and acknowledged the foregoing instrument to be his/her free act and deed in said capacity and the free act and deed of said limited liability company.

_____
Notary Public
Typed or Printed Name:

Exhibit A

Description of the Land

(attached hereto)

Exhibit B

Existing Liens

1. All those exceptions to title set forth on Exhibit B to Loan Policy No. M-5847(A) issued by Lawyers Title Insurance Corporation.

2. Those liens and security interests granted in favor of the Term Collateral Agent disclosed by the Intercreditor Agreement.

**MORTGAGE, ASSIGNMENT OF LEASES,
RENTS AND PROFITS AND SECURITY AGREEMENT**

DOUGLAS DYNAMICS, L.L.C.

Mortgagor

to

JPMORGAN CHASE BANK, N.A.
in its capacity as Collateral Agent for the Secured Parties
111 East Wisconsin Ave., Floor 15
Milwaukee, WI 53202-4815

Mortgagee

DATED: As of May 21, 2007

Premises located in:
Milwaukee, Wisconsin

Record and Return to:
Skadden Arps Slate Meagher & Flom LLP
300 South Grand Avenue
Los Angeles, California 90071
Attn: Eric Lee, Esq.

INDEX

MORTGAGE, ASSIGNMENT OF LEASES, RENTS AND PROFITS AND SECURITY AGREEMENT

THIS MORTGAGE, ASSIGNMENT OF LEASES, RENTS AND PROFITS AND SECURITY AGREEMENT(this **"Mortgage"**) made as of this 21st day of May, 2007 by **DOUGLAS DYNAMICS, L.L.C.**, a Delaware limited liability company having an office at 7777 North 73rd Street, Milwaukee, Wisconsin 53223 (the **"Mortgagor"**), to **JPMORGAN CHASE BANK, N.A. ("JPMorgan")**, as collateral agent (in such capacity, and together with its successors and assigns, the **"Mortgagee"**), having an office at 111 East Wisconsin Ave., Floor 15, Milwaukee, WI 53202-4815, Attention: Michael A. Hintz, Account Executive — ABL, for the Secured Parties (as such term and other capitalized terms used but not otherwise defined herein are defined in the Credit Agreement, defined below).

W I T N E S S E T H:

WHEREAS, Mortgagor is the owner of the fee interest in those certain parcels of land lying and being situated in the City of Milwaukee, Milwaukee County, Wisconsin, as more particularly described in Exhibit A attached hereto;

WHEREAS, Mortgagor, Fisher, LLC, a Delaware limited liability company ("**Fisher**") and Douglas Dynamics Finance Company, a Delaware corporation ("**DD Finance**"), as Borrowers, Douglas Dynamics Holdings, Inc., a Delaware corporation ("**Holdings**"), as Guarantor, the banks and financial institutions having Revolving Loan Commitments (as defined therein) or listed on the signature pages thereof (together with their respective successors and assigns, each individually referred to herein as a "**Lender**" and collectively as "**Lenders**"), Credit Suisse, Cayman Islands Branch, as sole bookrunner, sole lead arranger, syndication agent, documentation agent and administrative agent for the Lenders ("**ABL Administrative Agent**"), and JPMorgan, as collateral agent for the Lenders, have entered into that certain Credit and Guaranty

Agreement, dated as of May 21, 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the **"Credit Agreement"**), pursuant to which Lenders have agreed to make, and Mortgagee has agreed to administer, certain credit facilities in an aggregate amount not to exceed $60,000,000, which extensions of credit shall be used for the purposes permitted under the Credit Agreement, upon the terms and conditions contained in the Credit Agreement; and

WHEREAS, Mortgagor has agreed to execute and deliver to Mortgagee this Mortgage in order to better secure Mortgagor's performance of Mortgagor's obligations under the Credit Agreement and under any of the other Credit Documents;

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and other good and valuable consideration, including Mortgagee's entering into the Credit Agreement, the receipt and legal sufficiency of which are hereby expressly acknowledged by all parties, to secure the full and complete payment and performance of the Obligations, including Mortgagor's performance of Mortgagor's

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obligations pursuant to the Credit Agreement, this Mortgage and the other Credit Documents, Mortgagor and Mortgagee hereby agree as follows:

Mortgagor does hereby grant, pledge, mortgage, warrant, sell, transfer, assign, and convey unto Mortgagee subject only to the Permitted Liens and Existing Liens (defined below), all of its right, title and interest in the following (collectively, the **"Property"**):

A. All that certain land located in the City of Milwaukee, Milwaukee County, Wisconsin, and more particularly described in Exhibit A annexed hereto and made a part hereof (collectively, the **"Land"**).

B. All the buildings, structures and improvements, now or at any time hereafter erected on the Land or any part thereof (collectively, the**"Buildings"**).

C. All machinery, apparatus, equipment, personal property and fixtures of every kind and nature whatsoever now or hereafter located in, on or about any one or more of the Buildings or upon the Land, or attached to or used or useable in connection with the operation or maintenance of the Land or any one or more of the Buildings, or any part thereof, and now owned or hereafter acquired (collectively, the **"Building Equipment"**; the Land, the Buildings and the Building Equipment being hereafter sometimes collectively referred to as the **"Premises"**).

D. All right, title and interest of Mortgagor, whether now owned or hereafter acquired, in and to any opened or proposed avenues, streets, roads, public places, sidewalks, alleys, strips or gores of land, in front of or adjoining the Land or any one or more of the Buildings and all easements, tenements, hereditament, appurtenances, rights and rights of way, public or private, pertaining or belonging to the Land or any one or more of the Buildings.

E. All insurance proceeds and all awards and payments, subject to applicable provisions of this Mortgage, including interest thereon, and the right to receive the same, which may be made in respect of all or any part of any of the Premises or any estate or interest therein or appurtenant thereto, as a result of damage to or destruction of all or any part of any of the Premises, the exercise of the right of condemnation or eminent domain, the closing of, or the alteration of the grade of, any street on or adjoining the Land, or any other injury to or decrease in the value of all or any part of any of the Premises.

F. All right, title and interest of Mortgagor in and to any and all present and future Leases (as defined inParagraph 47) of all or any part of the Premises, and in and to the rents, issues and profits payable thereunder and cash or securities deposited thereunder as lessees' security deposits.

G. All franchises, permits, licenses and rights therein respecting the use, occupation and operation of the Premises or the activities conducted thereon or therein.

H. All right, title and interest of Mortgagor in and to any minerals, oil or gas located on, under or appurtenant to the Land.

I. All right, title and interest of Mortgagor in and to any tax refunds with respect to the Premises.

J. To the extent assignable, all of Mortgagor's interest in and to all agreements, contracts, certificates, instruments and other documents, now or hereafter entered into, pertaining to the construction, operation or management of the Premises and all right, title and interest of Mortgagor therein (collectively, the **"Contracts"**).

K. All of Mortgagor's interest in and to all easements, rights, licenses, privileges and appurtenances including, without limitation, development and air rights now or hereafter belonging or in any way appertaining to the Land.

L. All of the estate and rights of Mortgagor now or hereafter acquired in and to land lying in streets, roads, ways and alleys, open or proposed, adjoining or contiguous to the Land.

M. The rents, issues and profits of any of the foregoing.

TO HAVE AND TO HOLD the Property unto Mortgagee, its successors and assigns, forever. Provided, that if (i) Mortgagor shall perform all obligations hereunder and (ii) the Obligations are paid in full, the Commitments are cancelled or terminated and all outstanding Letters of Credit are cancelled or have expired, then this Mortgage shall be released without warranty, at the cost and request of Mortgagor.

AND MORTGAGOR COVENANTS, REPRESENTS AND WARRANTS TO AND FOR THE BENEFIT OF MORTGAGEE AND THE SECURED PARTIES AS FOLLOWS:

1. Payment of Obligations and Performance of Covenants and Agreements Mortgagor shall pay or perform the Obligations when due in accordance with the provisions of the Credit Agreement, this Mortgage, and the other Credit Documents and perform the covenants and agreements of Mortgagor set forth in the Credit Documents.

2. Title to Property Mortgagor represents and warrants that (a) it owns good and marketable fee simple title to the Premises, (b) it has the good and unrestricted right, full power and lawful authority to make this Mortgage in accordance with the terms hereof, (c) Mortgagor has obtained any and all consents and approvals necessary or required for the making of this Mortgage, and the making of this Mortgage will not violate any contract or agreement to which Mortgagor is a party or by which the Property is bound, and (d) the Premises is free of all liens, encumbrances, adverse claims and other defects of title whatsoever except those items listed on Exhibit B annexed hereto and made a part hereof (collectively, the **"Existing Liens"**) and Permitted Liens. Mortgagor does hereby and shall forever warrant and defend its title to and interest in the Property and the validity and priority of the lien of this Mortgage, subject to the Existing Liens and the Permitted Liens, to Mortgagee and the Secured Parties, their respective successors and assigns, against all claims and demands whatsoever of any Person or

Persons. As of the date hereof, there are no defenses or offsets to this Mortgage or to the Obligations.

3. Intercreditor Agreement Notwithstanding anything herein to the contrary, and regardless of the priority of recordation of this Mortgage, the lien and security interests granted to the Mortgagee pursuant to this Mortgage and the exercise of any right or remedy by such Mortgagee hereunder are subject to the provisions of that certain Intercreditor Agreement, dated as of May 21, 2007 (the "**Intercreditor Agreement**"), by and among Mortgagor, Fisher, DD Finance, Holdings, Beneficiary, ABL Administrative Agent, and Credit Suisse, Cayman Islands Branch, in its capacities as collateral agent (together with its successors and assigns from time to time in such capacity, the "**Term Collateral Agent**") and administrative agent under the Term Loan Documents (as defined therein). In the event of any conflict between the terms of the Intercreditor Agreement and this Mortgage, the terms of the Intercreditor Agreement shall govern.

4. Future Advances Without limiting the generality of any other provision hereof, or the terms and provisions of the Credit Agreement, the Obligations shall include, without limitation: (a) all existing indebtedness of Mortgagor to Mortgagee and/or any of the Secured Parties evidenced by any of the Credit Documents; (b) all future advances that may subsequently be made by Mortgagee and/or the Lenders as provided by any of the Credit Documents; and (c) all other indebtedness, if any, of Mortgagor to Mortgagee and/or any of the Secured Parties now due or to become due or hereafter contracted pursuant to any of the Credit Documents; provided that the maximum principal amount of all existing indebtedness, future advances, readvances of sums repaid and all other indebtedness secured hereby at any one time shall not exceed the total sum of $120,000,000 (exclusive of interest thereon, attorneys' fees and costs, taxes, insurance premiums and all other obligations hereunder).

5. Insurance

(a) Mortgagor shall maintain in full force and effect with respect to the Premises the insurance as required by Section 5.5 of the Credit Agreement.

(b) In the event of a foreclosure of this Mortgage or other action or proceeding taken by Mortgagee pursuant to this Mortgage, the purchaser of the Premises shall succeed to all of the rights of Mortgagor, including any right to unearned premiums, in and to all policies of insurance which Mortgagor is required to maintain under Paragraph 5(a) and to all proceeds of such insurance.

6. Impositions

(a) Mortgagor shall pay, not later than the final delinquency date thereof (and if payable in installments, not later than the installment final delinquency date), all real estate taxes, personal property taxes, assessments, water rates and sewer rents, license fees, all charges which may be imposed for the use of vaults, chutes, areas and other space beyond the lot line and abutting the public sidewalks in front of or adjoining

the Land, and any other amounts which could be or become a lien upon or against the Property or any part thereof (collectively, the **"Impositions"**); provided, no such Imposition need be paid if it is being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, so long as adequate reserve or other appropriate provision, as shall be required in conformity with GAAP shall have been made therefor. Notwithstanding the foregoing, Mortgagor shall promptly, and in any event on demand, pay such contested Imposition if at any time all or any part of the Property shall be in danger of being foreclosed, sold, forfeited, or otherwise lost or if such contest shall be discontinued. During the continuance of any Event of Default, upon demand by Mortgagee, Mortgagor will pay the whole of any assessment (an **"Assessment"**) for local improvements which may be payable in installments, notwithstanding that such installments may not be due and payable at the time of such demand.

(b) Mortgagor shall, upon request of Mortgagee, deliver to Mortgagee, within twenty (20) days after the final delinquency date thereof of any Imposition or Assessment, receipts evidencing such payment or other proof of payment satisfactory to Mortgagee.

7. Maintenance and Alterations Mortgagor will maintain or cause to be maintained in good repair, working order and condition, ordinary wear and tear excepted, the Premises and from time to time will make or cause to made all appropriate repairs, renewals and replacements thereof.

8. Leasing Mortgagor represents that there are no Leases now in effect. Mortgagor shall not enter into any Lease of all or any part of any of the Premises without in each instance obtaining Mortgagee's prior written consent thereto, which consent shall not be unreasonably withheld, conditioned or delayed. Mortgagor shall deliver to Mortgagee a duplicate original of each Lease promptly after the execution thereof. At the option of Mortgagee, each Lease, and all renewals, replacements, extensions, and modifications thereof, and all rights of the tenant thereunder, shall be subject and subordinate to this Mortgage, and to each and every advance made or thereafter made hereunder or under the other Credit Documents and to all renewals, additions, amendments, supplements, modifications, consolidations, spreaders, replacements, and extensions of this Mortgage and shall contain provisions obligating the tenants thereunder to attorn to Mortgagee or any purchaser therefrom if Mortgagee or such purchaser succeeds to the interest of Mortgagor under such Lease. Mortgagor shall fully and promptly perform all of the obligations to be performed by the lessor under any and all Leases. Mortgagor shall enforce the performance and observance of each and every obligation to be performed or observed by the lessees under such Leases. Mortgagor shall give prompt notice to Mortgagee of (a) any notice received by Mortgagor of any default by the lessor under any Lease, (b) the commencement of any action or proceeding by any lessee the purpose of which shall be the cancellation of any Lease or a diminution or abatement of the rent payable thereunder, (c) any notice of default given by Mortgagor to the lessee under any Lease, or (d) the interposition by any lessee of any defense or counterclaim in any action or proceeding brought by Mortgagor against such lessee; and Mortgagor will cause a copy of any process, pleading or notice received or served by

Mortgagor in reference to any such action, defense or claim to be promptly delivered to Mortgagee. Mortgagor shall hold in trust all security deposits and advance rent given on account of any Lease, and deposit such security in a bank or trust company and shall not mingle such funds with other funds. Mortgagor shall repay or apply such funds only in accordance with the provisions of the applicable Leases.

9. Recording, Filing and Other Fees Mortgagor shall pay all recording and filing fees, all recording taxes, and all other costs and expenses in connection with the preparation, execution and recordation and other manner of perfection of this Mortgage and any other Credit Documents, and shall reimburse Mortgagee and each of the Secured Parties on demand for all costs and expenses of any kind incurred by Mortgagee or any of the Secured Parties in connection therewith (including, without limitation, reasonable attorneys' fees and disbursements). Mortgagor will, at any time on request of Mortgagee, execute or cause to be executed financing statements, continuation statements, or the like, in respect of any Building Equipment. Mortgagor shall pay all filing fees, including fees for filing continuation statements, in connection with such financing statements.

10. Taxes Imposed on Mortgagee and the Secured Parties Mortgagor shall pay all taxes (except income, inheritance and franchise taxes, taxes on the receipt of debt service payments, or taxes in lieu of any of the foregoing) imposed on Mortgagee or any of the Secured Parties by reason of its ownership of this Mortgage or any of the other Credit Documents.

11. Compliance with Laws, etc. Mortgagor shall comply with the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority (including Environmental Laws), noncompliance with which could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

12. Inspection Mortgagee and its authorized representatives shall have the right, at Mortgagee's option, at reasonable times during normal business hours and upon reasonable prior written notice, and as often as may be reasonably requested, to enter the Premises for the purpose of inspecting the same and any other Collateral.

13. Certificate of Mortgagor Mortgagor, upon request of Mortgagee or any of the Secured Parties, shall certify to Mortgagee or to such Secured Party or to any proposed assignee of or participant in this Mortgage, by an instrument in form reasonably satisfactory to Mortgagee or such Secured Party, duly acknowledged, the amount of the Obligations then owing, whether any offsets or defenses exist against payment or performance of all or any portion of the Obligations and anything else that Mortgagee or such Secured Party might reasonably request, within ten (10) days if the request is made personally, or within fifteen (15) days if the request is made by mail. Mortgagee, Secured Parties and any actual or proposed assignee of or participant in this Mortgage shall have the right to rely on such certification.

14. Condemnation

(a) Mortgagor shall give notice to Mortgagee upon Mortgagor receiving written notice of the commencement of any action or proceeding to take all or any part of the Premises by exercise of the right of condemnation or eminent domain or of any action or proceeding to close or to alter the grade of any street on or adjoining the Land. Mortgagee may participate in any such action or proceeding in the name of Mortgagee or, whenever necessary, in the name of Mortgagor, and Mortgagor shall deliver to Mortgagee such instruments as Mortgagee shall request to permit such participation. Mortgagor shall not settle any such action or proceeding or agree to accept any award or payment without the prior written consent of Mortgagee (which consent shall not be unreasonably withheld, conditioned or delayed), and such award or payment and any interest thereon (hereinafter collectively called the **"Award"**) shall be applied in accordance withSection 2.14(b) and Section 2.15 of the Credit Agreement.

(b) The application of any Award toward payment of the Obligations shall not be deemed a waiver by Mortgagee or any of the Secured Parties of its right to receive payment of the balance of the Obligations in accordance with the provisions of the Credit Documents. Mortgagee shall have the right, but shall be under no obligation, to question the amount of the Award, and Mortgagee may accept the same without prejudice to the rights that Mortgagee may have to question such amount. In any such condemnation or eminent domain action or proceeding Mortgagee may be represented by attorneys selected by Mortgagee, and all sums paid by Mortgagee in connection with such action or proceeding (including, without limitation, reasonable attorneys' fees to the extent permitted by law) shall, on demand, be immediately due from Mortgagor to Mortgagee and the same shall be secured by this Mortgage.

(c) Notwithstanding any taking by condemnation or eminent domain, closing of, or alteration of the grade of, any street or other injury to or decrease in value of the Premises by any public or quasi-public authority or corporation, the unpaid principal portion of the Advances shall continue to bear interest at the rate payable pursuant to the applicable Credit Documents until the Award shall have been actually received by Mortgagee, and any reduction in the Obligations resulting from the application by Mortgagee of the Award shall be deemed to take effect only on the date of such receipt.

15. Restoration If the Buildings or the Building Equipment shall be damaged or destroyed, in whole or in part, by fire or other casualty, or by any taking in condemnation proceedings or the exercise of any right of eminent domain, Mortgagor shall promptly restore, replace or rebuild the same to as nearly as possible the value, quality and condition they were in immediately prior to such fire or other casualty or taking, with such alterations or changes as may be approved in writing by Mortgagee which approval shall not be unreasonably withheld or delayed, or apply the amount of any Award or insurance proceeds received with respect thereto, in each case in accordance with Section 2.14(b) and Section 2.15 of the Credit Agreement. Mortgagor shall give prompt notice to Mortgagee of any damage or destruction to the Buildings or Building Equipment by fire or other casualty, as well as the initiation of any condemnation or eminent domain proceeding affecting the same.

16. Default

(a) Any Event of Default under the Credit Agreement shall constitute an Event of Default hereunder and Mortgagee shall have all of the rights of the Administrative Agent and Collateral Agent under the Credit Agreement and all of the remedies hereunder.

(b) All notice and cure periods provided in the Credit Agreement shall run concurrently with any notice and cure periods provided under applicable law.

17. Mortgagee's Right to Perform Mortgagor's Covenants If there shall be an Event of Default, Mortgagee may, at its option, cure such Event of Default, and Mortgagee and its representatives shall have the right to enter the Premises to do so, and the amounts advanced by, and the other costs and expenses of, Mortgagee in curing such Event of Default, with interest from the time of the advances or payments at the Base Rate plus the Applicable Margin, shall, on demand, be immediately due from Mortgagor to Mortgagee and shall be secured by this Mortgage.

18. Contemporaneous Mortgages THIS MORTGAGE IS MADE CONTEMPORANEOUSLY WITH TWO (2) OTHER MORTGAGES OR DEEDS OF TRUST OF EVEN DATE HEREWITH (as any of the same may be amended, supplemented, restated, severed, consolidated, spread, partially released, increased or otherwise modified from time to time, the **"Contemporaneous Mortgages"**) GIVEN TO MORTGAGEE COVERING PROPERTY LOCATED IN THE STATES OF TENNESSEE AND MAINE. The Contemporaneous Mortgages secure the Obligations. Upon the occurrence of an Event of Default, Mortgagee may proceed under this Mortgage and/or the Contemporaneous Mortgages against any of such property and/or the Property in one or more parcels and in such manner and order as Mortgagee shall elect. Mortgagor hereby irrevocably waives and releases, to the extent permitted by law, whether now or hereafter in force, any right to have the property and/or the Property covered by the Contemporaneous Mortgages marshalled upon any foreclosure of this Mortgage or the Contemporaneous Mortgages.

19. Appointment of Receiver After the occurrence and during the continuance of an Event of Default, Mortgagee may apply for the appointment of a receiver of the Rents (as defined in Paragraph 47), issues, and profits of all or any part of the Property from whatever source derived and thereupon it is hereby expressly covenanted and agreed that the court shall forthwith appoint such receiver with the usual powers and duties of receivers in like cases; and said appointment shall be made by the court ex parte as a matter of strict right to Mortgagee, without notice to or demand upon Mortgagor or any Person claiming through or under Mortgagor, and Mortgagee shall be entitled to the appointment of such receiver as a matter of right, to the extent not prohibited by applicable law, without consideration of the value of the Property as security for the amounts due to Mortgagee or the Secured Parties or the solvency of any Person liable for the payment of such amounts. Mortgagor hereby specifically waives the right to object to the appointment of a receiver as aforesaid and hereby expressly consents that such appointment shall be made ex parte and without notice to Mortgagor as an

admitted equity and as a matter of absolute right to Mortgagee. In order to maintain and preserve the Property and to prevent waste and impairment of its security, Mortgagee may, at its option, advance monies to the appointed receiver and all such sums advanced shall become secured obligations and shall bear interest from the date of such advance at the rate of interest specified in Section 2.9 of the Credit Agreement.

20. Power of Sale To the extent permitted by the laws of the State of Wisconsin, Mortgagee is hereby granted a power of sale and may sell any of the Premises (together with the Rents and profits and intangible personalty), or such part or parts thereof or interests therein as Mortgagee may select.

21. Judicial Foreclosure After the occurrence and during the continuance of an Event of Default, Mortgagee may institute an action of foreclosure, or take such other action as the law may allow, at law or in equity, for the enforcement hereof and realization on the Property or any other security which is herein or elsewhere provided for, and proceed thereon to final judgment and execution thereon for the entire principal then outstanding under the Credit Documents, with interest thereon at the rate stipulated in the Credit Documents to the date of default and thereafter at the default interest rate specified in Section 2.9 of the Credit Agreement together with all other sums secured by this Mortgage, all costs of suit, including, without limitation, the expenses which are described in Paragraphs 25 and 29, and interest at the default interest rate specified in Section 2.9 of the Credit Agreement on any judgment obtained by Mortgagee from and after the date of any judicial sale of any of the Property until actual payment. Upon any sale or sales made hereunder, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Mortgagee and/or any of the Secured Parties may bid for and acquire any of the Property or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting against the Obligations the net sales price after deducting therefrom the expenses of the sale and the costs of the action and any other sums which Mortgagee is authorized to deduct under this Mortgage. Except as otherwise provided in the Credit Agreement, the proceeds of such sale shall be applied first to the payment of the costs and charges of such sale, including, without limitation, Mortgagee's attorneys' fees, (to the extent permitted by law), and second to the payment of the Obligations, the surplus money, if any, to be paid to the Person(s) legally entitled thereto (including Mortgagor, to the extent so entitled, if at all). The obligation of Mortgagor to so execute and file such waiver shall survive the termination of this Mortgage. Following a foreclosure sale, the sheriff shall deliver to the purchaser the sheriff's deed (and bill of sale as to any personalty) conveying the property so sold without any covenant or warranty, express or implied.

22. Sale in Parcels In the event of a foreclosure of this Mortgage or upon any sale under this Mortgage pursuant to judicial proceedings or otherwise, the Property may be sold in one parcel and as an entirety or in such parcels, manner or order as Mortgagee in its sole discretion may select.

23. Notice Upon Acceleration Whenever Mortgagee in this Mortgage is given the option to accelerate the maturity of all or part of the Obligations

upon the occurrence of an Event of Default, Mortgagee may, to the extent permitted by law, do so without prior notice or demand to or upon Mortgagor except as otherwise specifically provided herein.

24. Possession of Premises To the extent permitted by law, after the occurrence and during the continuance of an Event of Default, Mortgagee and its agents and any receiver appointed by a court are authorized to (a) take possession of the Premises, with or without legal action, and by force if necessary; (b) lease the Premises or make modifications to or cancel Leases; (c) maintain, repair, alter, and restore the Premises; (d) with or without taking possession, collect all Rents and profits payable under all Leases directly from the lessees thereunder upon notice to each such lessee that an Event of Default exists under this Mortgage accompanied by a demand on such lessee for the payment to Mortgagee of all Rents due and to become due under its Lease, and Mortgagor FOR THE BENEFIT OF MORTGAGEE AND EACH SUCH LESSEE hereby covenants and agrees that the lessee shall be under no duty to question the accuracy of Mortgagee's statement of default and shall unequivocally be authorized to pay said Rents to Mortgagee without regard to the truth of Mortgagee's statement of an Event of Default and notwithstanding notices from Mortgagor disputing the existence of an Event of Default such that the payment of rent by the lessee to Mortgagee pursuant to such a demand shall constitute performance in full of the lessee's obligation under the Lease for the payment of Rents by the lessee to Mortgagor; and (e) after deducting all costs of collection and administration expense, apply the net Rents and profits to the payment of Impositions, insurance premiums and all other carrying charges (including, without limitation, agents' compensation and fees and reasonable costs of counsel to the extent permitted by law, and receivers) and to the maintenance, repair or restoration of the Premises, or, except as otherwise provided in the Credit Agreement, on account and in reduction of the Obligations in such order and amounts as Mortgagee in Mortgagee's sole discretion may elect. Mortgagee shall be liable to account only for Rents and profits actually received by Mortgagee.

25. Expenses of Mortgagee and/or the Secured Parties All sums (including reasonable attorneys' fees and disbursements, to the extent permitted by law) paid by Mortgagee and/or any of the Secured Parties in connection with any litigation to prosecute or defend the rights and obligations created by this Mortgage, with interest thereon at the default interest rate specified in Section 2.9 of the Credit Agreement from the time of payment by Mortgagee and/or any of the Secured Parties shall, on demand, be immediately due from Mortgagor to Mortgagee and/or any such Secured Party and shall be added to and included in the Obligations and shall be secured by this Mortgage.

26. Mortgagor's Waivers Mortgagor, for itself and its successors and assigns, hereby irrevocably waives and releases, to the extent permitted by law, whether now or hereafter in force, (i) the benefit of any and all valuation and appraisement laws, (ii) any right of redemption whether statutory or otherwise, in respect of the Property, (iii) any applicable homestead or dower laws, (iv) all exemption laws whatsoever and all moratoriums, extensions or stay laws or rules, or orders of court in the nature of any one or more of them, (v) any right to have any of the Property marshalled upon foreclosure of this Mortgage, (vi) the right to interpose any set-off, recoupment, counterclaim or cross-

claim in any litigation in any court with respect to, in connection with, or arising out of this Mortgage or any of the other Credit Documents unless such set-off, recoupment, counterclaim or cross-claim could not, by reason of the applicable Federal or State procedural laws, be interposed, pleaded or alleged in any other action, and (vii) any right Mortgagor may have to claim or recover in any litigation arising out of this Mortgage or any of the other Credit Documents any special, exemplary, punitive or consequential damages or any damages other than, or in addition to, actual damages.

27. Partial Foreclosure Mortgagee may from time to time, if permitted by law, take action to recover any sums, whether interest, principal or any other sums, required to be paid under this Mortgage or any other Credit Document as the same become due, without prejudice to the right of Mortgagee thereafter to bring an action of foreclosure, or any other action, for an Event of Default by Mortgagor existing when such earlier action was commenced. Mortgagee may also foreclose this Mortgage for any sums due under this Mortgage or any other Credit Document and the lien of this Mortgage shall continue to secure the balance of the Obligations due.

28. No Waiver; Rights Cumulative No failure or delay on the part of Mortgagee or any of the Secured Parties in the exercise of any power, right or privilege hereunder or under any other Credit Document shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other power, right or privilege. The rights, powers and remedies given to Mortgagee and each of the Secured Parties hereby are cumulative and shall be in addition to and independent of all rights, powers and remedies existing by virtue of any statute or rule of law or in any of the other Credit Documents. Any forbearance or failure to exercise, and any delay in exercising, any right, power or remedy hereunder shall not impair any such right, power or remedy or be construed to be a waiver thereof, nor shall it preclude the further exercise of any such right, power or remedy.

29. Attorneys' Fees If this Mortgage shall be foreclosed, or if any of the Credit Documents is placed in the hands of an attorney for collection or is collected through any court, including any bankruptcy court, there shall be included in the computation of the sums secured hereby, to the extent permitted by law, the amount of a reasonable fee for the services of the attorney retained by Mortgagee in the foreclosure action or proceeding, and all disbursements, costs, allowances and additional allowances provided by law.

30. Interest After Maturity The Obligations secured by this Mortgage shall bear interest from and after maturity, whether or not resulting from acceleration, at the default interest rate specified in Section 2.9 of the Credit Agreement, but this shall not constitute an extension of time for payment of the Obligations.

31. No Credit for Taxes Mortgagor shall not claim or demand or be entitled to any credit or credits on account of any of the sums secured hereby by reason of the Impositions assessed against all or any part of the Property or for any payments made

on account thereof. No deductions shall be made or claimed from the taxable value of all or any part of the Premises by reason of this Mortgage.

32. Liens This Mortgage is and shall be maintained as a valid first lien on the Property subject only to any encumbrances created pursuant to the Credit Documents and the Existing Liens and the Permitted Liens, if any. Notwithstanding any provision in the Credit Documents to the contrary, Mortgagor shall not, directly or indirectly, create or suffer or permit to be created, or to stand, against the Property or any portion thereof, or against the Rents, issues and profits therefrom, any lien, charge, mortgage, deed of trust, adverse claim or other encumbrance (herein collectively referred to as a **"lien"**), whether senior or junior in lien to this Mortgage, other than the lien of (i) this Mortgage and (ii) the Permitted Liens (including easements, rights-of-way, restrictions, encroachments, minor defects or irregularities in title and other similar charges, in each case which do not and will not interfere in any material respect with the use or value thereof; provided, however, that Mortgagor shall give Mortgagee at least twenty (20) days prior written notice of any Permitted Lien described in the parenthetical to clause (ii) above which is to be created after the date hereof together with a reasonably detailed description thereof; and provided, further, that nothing contained in this Paragraph shall require Mortgagor to pay any real estate taxes or other Impositions prior to the time when same are required to be paid under this Mortgage. Mortgagor will keep and maintain all of the Premises free from all liens of Persons supplying labor or materials relating to the construction, alteration, modification or repair of the Premises. If any such lien shall be filed against any of the Property, Mortgagor agrees to discharge the same of record (by payment, bonding or otherwise) within 10 days of notice of the filing thereof. No financing statement, conditional bill of sale or chattel mortgage shall be made or filed against any Building Equipment without the prior consent of Mortgagee and if at any time there should be any (with or without the consent of Mortgagee), then upon the occurrence and during the continuance of an Event of Default, all right, title and interest of Mortgagor in and to all deposits and payments made thereon are hereby assigned to Mortgagee.

33. Change in Taxation In the event of the enactment of or change in (including, without limitation, a change in interpretation of) any applicable law (a) deducting or allowing Mortgagor to deduct from the value of the Property for the purpose of taxation any lien or security interest thereon, (b) imposing, modifying or deeming applicable any reserve or special requirement against deposits in or for the account of, or loans by, or other liabilities of, or other assets held by Mortgagee or any of the Secured Parties, or (c) subjecting Mortgagee or any of the Secured Parties to any tax or changing the basis of taxation of mortgages, deeds of trust, or other liens or debts secured thereby, or the manner of collection of such taxes, in each such case, so as to affect this Mortgage, the Obligations, Mortgagee or any of the Secured Parties, and the result is to increase the taxes imposed upon or the cost to Mortgagee or any of the Secured Parties of maintaining the Obligations, or to reduce the amount of any payments receivable hereunder or under the other Credit Documents, then, and in any such event, Mortgagor shall, on demand, pay to Mortgagee for the account of Mortgagee or any of the Secured Parties, as the case may be, such additional amounts as may be required to compensate for such increased costs or reduced amounts, provided that if any such payment or reimbursement shall be

unlawful or would constitute usury under applicable law, then Mortgagee may, at its option, require Mortgagor to make a partial repayment of the Obligations in an amount equal to the then value of the Premises.

34. Assignment of Leases and Rents Mortgagor absolutely and unconditionally assigns to Mortgagee the Rents, issues and profits of the Premises as further security for the payment of the Obligations and Mortgagor grants to Mortgagee during the existence of an Event of Default the right to enter the Premises for the purpose of collecting the same and to let the Premises, or any part thereof, and, except as otherwise provided in the Credit Agreement, to apply said Rents, issues and profits, after payment of all necessary charges and expenses, on account of the Obligations. This assignment and grant shall continue in effect until the payment in full of the Obligations, the cancellation or termination of the Commitments and the cancellation or expiration of all outstanding Letters of Credit. Mortgagee hereby waives the right to enter the Premises for the purpose of collecting said Rents, issues and profits, and Mortgagor shall be entitled to collect, receive and use said Rents, issues and profits, until the occurrence and during the continuance of and Event of Default. During the continuance of any Event of Default, the right of Mortgagor to collect, receive and use said Rents, issues and profits, shall be revoked forthwith. Further, from and after delivery of written notice of such revocation, constructive possession of the Premises shall be vested in Mortgagee, and this assignment shall be activated and perfected. Notwithstanding the foregoing, this assignment shall also be activated and perfected upon Mortgagee's exercising, upon the occurrence and during the continuance of an Event of Default, any of the following remedies pursuant to this Mortgage: (i) taking actual possession of the Premises; (ii) moving or applying for the appointment of a receiver; (iii) filing or commencing an action to foreclose this Mortgage; or (iv) collecting the Rents directly from the tenant(s). Mortgagor shall, from time to time after request by Mortgagee, execute, acknowledge and deliver to Mortgagee, in form reasonably satisfactory to Mortgagee, separate assignments effectuating the foregoing. Neither Mortgagee nor the Secured Parties shall be obligated to perform or discharge any obligation or duty to be performed or discharged by Mortgagor under any Lease or other agreement affecting all or any part of the Premises, and Mortgagor hereby agrees to indemnify Mortgagee and the Secured Parties for and hold them harmless from, any and all liability arising from any such Lease or other agreement or any assignments thereof, and no assignment of any such Lease or other agreement shall place the responsibility for the control, care, management or repair of all or any part of the Premises upon Mortgagee or the Secured Parties, nor make Mortgagee or the other Secured Parties liable for any negligence in the management, operation, upkeep, repair or control of all or any part of the Premises resulting in injury, death or property damage. In addition, after the occurrence and during the continuance of an Event of Default and following the giving of notice to Mortgagor, Mortgagor will pay monthly in advance to Mortgagee, or to any receiver appointed to collect said Rents, issues and profits, the fair and reasonable rental value for the use and occupancy of the Premises or of such part thereof as may be in the possession of Mortgagor, and upon default in any such payment will vacate and surrender the possession thereof to Mortgagee or to such receiver, and in default thereof may be evicted by summary or other proceedings.

35. Security Agreement It is the intention of the parties hereto that this instrument shall constitute a Security Agreement and a Financing Statement within the meaning of the Uniform Commercial Code as enacted in the state in which the Land is located with respect to the personalty and fixtures comprising a part of the Property, and that a security interest shall attach thereto for the benefit of Mortgagee, as secured party, to further secure the Obligations. Mortgagor hereby authorizes Mortgagee to file financing and continuation statements with respect to such collateral in which Mortgagor has a mortgageable interest, without the signature of Mortgagor whenever lawful, and upon request, Mortgagor shall promptly execute financing and continuation statements in form satisfactory to Mortgagee to further evidence and secure Mortgagee's interest in such collateral, and shall pay all filing fees in connection therewith. In the event of the occurrence and during the continuance of an Event of Default, Mortgagee, pursuant to the applicable provision of the Uniform Commercial Code, shall have the option of proceeding as to both real and personal property in accordance with its rights and remedies in respect of the real property, in which event the default provisions of the Uniform Commercial Code shall not apply. The parties agree that in the event Mortgagee elects to proceed with respect to collateral constituting personalty or fixtures separately from the real property, without demand, notice or advertisement whatsoever except that where an applicable statute requires reasonable notice of sale or the dispositions, the giving of ten (10) days' notice by Mortgagee to Mortgagor, shall be deemed to be reasonable notice thereof and Mortgagor waives any other notice with respect thereto.

36. No Release Neither Mortgagor nor any other Person now or hereafter obligated for the payment or performance of all or any portion of the

Obligations shall be released from paying such Obligations and the lien of this Mortgage shall not be affected by reason of (a) the failure of Mortgagee or any of the Secured Parties to comply with any request of Mortgagor, or of any other Person so obligated, to take action to foreclose this Mortgage or otherwise enforce any of the provisions of this Mortgage or of any of the covenants and agreements of Mortgagor under the Credit Documents, (b) the release, regardless of consideration, of the whole or any part of the security held for the Obligations, (c) the release, regardless of consideration, of the obligations of any Person or Persons liable for payment or performance of all or any portion of the Obligations, or (d) any agreement or stipulation extending the time of payment or modifying the terms of any of the Credit Documents, and in the event of such agreement or stipulation, Mortgagor and all such other Persons shall continue to be liable under the Credit Documents, as amended by such agreement or stipulation, unless expressly released and discharged in writing by Mortgagee and the Secured Parties.

37. Notices All notices, consents and other communications provided for herein shall be sent to such Person's address as follows (or to such other address indicated in an unrevoked written notice from such Person given in accordance the terms of this Paragraph):

(a) if to Mortgagor, Douglas Dynamics, L.L.C., 7777 North 73rd Street, Milwaukee, WI 53223, Attention: Chief Executive Officer and President, Telecopy No.: (414) 354-8448, with a copy to Aurora Capital Group, 10877 Wilshire Boulevard, Suite

2100, Los Angeles, CA 90024, Attention: Secretary, Douglas Dynamics Holdings, Inc., Telecopier No.: (310) 824-2791, with a copy to Gibson, Dunn & Crutcher LLP, 333 S. Grand Avenue, Los Angeles, CA 90071, Attention: Jeff R. Hudson, Esq., Telecopy No.: 213-229-6332; and

(b) if to Mortgagee or Collateral Agent, at JPMorgan Chase Bank, N.A., 111 East Wisconsin Ave., Floor 15, Milwaukee, WI 53202-4815, Attention: Attention: Michael A. Hintz, Account Executive — ABL, Telecopy No.: 414-977-6666, with a copy to Skadden Arps Slate Meagher & Flom LLP, 333 West Wacker Drive, Suite 2100, Chicago, IL 60606, Attention: Seth E. Jacobson, Esq., Telecopy No.: (312) 407-0411; and

(c) if to any of the Secured Parties, at the address set forth below such Secured Party's name on the signature pages of the Credit Agreement.

Each notice hereunder shall be in writing and may be personally served, telexed or sent by telefacsimile or United States mail or courier service and shall be deemed to have been given when delivered in person or by courier service and signed for against receipt thereof, upon receipt of telefacsimile or telex, or three (3) Business Days after depositing it in the United States mail with postage prepaid and properly addressed; provided, no notice to Mortgagee shall be effective until received by Mortgagee.

38. Severability In case any provision in or obligation hereunder shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

39. Intentionally Deleted

40. Indemnification Against Liabilities Mortgagor will defend, indemnify, pay and hold harmless Mortgagee and the Secured Parties and their respective officers, partners, directors, trustees, employees, agents and Affiliates of Mortgagee and each of the Secured Parties from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind (including, without limitation, reasonable attorneys' fees and expenses) imposed upon or incurred by or asserted against Mortgagee and any of the Secured Parties by reason of (a) ownership of a mortgagee's or participating lender's interest in the Property, (b) any accident or injury to or death of Persons or loss of or damage to or loss of the use of property occurring on or about the Premises or any part thereof or the adjoining sidewalks, curbs, vaults and vault spaces, if any, streets, alleys or ways, unless due to the willful misconduct of Mortgagee or such Secured Party, (c) any use, nonuse or condition of the Premises or any part thereof or the adjoining sidewalks, curbs, vaults and vault spaces, if any, streets, alleys or ways, (d) any failure on the part of Mortgagor to perform or comply with any of the terms of this Mortgage, (e) performance of any labor or services or the furnishing of any materials or other property in respect of the Premises or any part thereof made or suffered to be made by or on behalf of Mortgagor, (f) any negligence or tortious act on the part of Mortgagor or any of its agents, contractors,

lessees, licensees or invitees, or (g) any work in connection with any alterations, changes, new construction or demolition of the Premises. All amounts payable to Mortgagee and the Secured Parties under this Paragraph shall be payable promptly on demand and shall be deemed indebtedness and Obligations secured by this Mortgage and any such amounts shall bear interest at the default interest rate specified in Section 2.9 of the Credit Agreement from the date of such demand. In case any action, suit or proceeding is brought against Mortgagor, Mortgagee and/or any of the Secured Parties by reason of any such occurrence, Mortgagor, upon request of Mortgagee or any of the Secured Parties will, at Mortgagor's expense, resist and defend such action, suit or proceeding or cause the same to be resisted or defended by counsel designated by Mortgagee or such Secured Party and approved by Mortgagor.

41. No Oral Changes This Mortgage and its provisions cannot be changed, waived, discharged or terminated orally but only by an agreement in writing, signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

42. Governing Law THE PROVISIONS OF THIS MORTGAGE REGARDING THE CREATION, PERFECTION AND ENFORCEMENT OF THE LIENS AND SECURITY INTERESTS HEREIN GRANTED SHALL BE GOVERNED BY AND CONSTRUED UNDER THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED. ALL OTHER PROVISIONS OF THIS MORTGAGE AND THE RIGHTS AND OBLIGATIONS OF MORTGAGOR AND MORTGAGEE SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPALS THEREOF.

43. Construction This Mortgage shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument or any portion thereof to be drafted.

44. Headings Paragraph headings herein are included herein for convenience of reference only and shall not constitute a part hereof for any other purpose or be given any substantive effect.

45. After Acquired Property All property of every kind which is hereafter acquired by Mortgagor which, by the terms hereof, is required or intended to be subjected to the lien of this Mortgage shall, immediately upon the acquisition thereof by Mortgagor, and without any further giving of a deed of trust and/or mortgage, conveyance, assignment or transfer, become subject to the lien of this Mortgage.

46. Further Assurances Mortgagor shall execute, acknowledge and deliver to Mortgagee any documents and instruments which Mortgagee may reasonably request from time to time for the better assuring, conveying, assigning, transferring, confirming or perfecting of Mortgagee's security and rights under this Mortgage, in form and substance reasonably satisfactory to Mortgagee.

47. Definitions The following terms shall, for all purposes of this Mortgage, have the respective meanings herein specified unless the context otherwise requires and such meanings shall apply equally to the singular and plural forms of such defined terms unless a definition is provided herein for both the singular and plural form of such defined term:

(a) **"Lease"** shall mean every lease or occupancy agreement for the use or hire of all or any portion of the Premises, which shall be in effect at the date hereof or which shall hereafter be entered into by or on behalf of Mortgagor.

(b) **"Rents"** shall mean all rents, rent equivalents, moneys payable as damages or in lieu of rent or rent equivalents, royalties (including, without limitation, all oil and gas or other mineral royalties and bonuses), income, receivables, receipts, revenues, deposits (including, without limitation, security, utility and other deposits), accounts, cash, issues, profits, charges for services rendered, and other consideration of whatever form or nature received by or paid to or for the account of or benefit of Mortgagor or its agents or employees from any and all sources arising from or attributable to the Land and the Building, including, without limitation, all receivables, customer obligations, installment payment obligations and other obligations now existing or hereafter arising or created out of the sale, lease, sublease, license, concession or other grant of the right of the use and occupancy of property, and proceeds, if any, from business interruption or other loss of income insurance.

48. Successors and Assigns The terms, covenants and provisions of this Mortgage shall apply to and be binding upon Mortgagor and the successors and assigns of Mortgagor and shall inure to the benefit of Mortgagee, the Secured Parties and their respective successors and assigns. All grants, covenants, terms, provisions, and conditions contained herein shall run with the Land.

49. Credit Agreement In the event of any inconsistency or conflict between the terms and provisions of the Credit Agreement and this Mortgage, the terms and provisions of the Credit Agreement shall control.

50. WAIVER OF JURY TRIAL MORTGAGOR AND MORTGAGEE HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS MORTGAGE AND ACKNOWLEDGE THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, THAT EACH HAS RELIED ON THIS WAIVER IN ENTERING INTO THIS MORTGAGE, AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN THEIR FUTURE DEALINGS. MORTGAGOR AND MORTGAGEE REPRESENT AND WARRANT THAT EACH HAS HAD AN OPPORTUNITY OF REVIEWING THIS JURY WAIVER WITH LEGAL COUNSEL AND THAT EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS.

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IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be executed under seal as of the day and year first above written.

Mortgagor:

DOUGLAS DYNAMICS, L.L.C.

By: _____
Name:
Title:

ACKNOWLEDGMENT

STATE OF)
)ss.
COUNTY OF)

Personally came before me this day of May, 2007 the above named , the of Douglas Dynamics, L.L.C. to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.

_____
_____
*
Notary Public, State of
My Commission expires:
, .)

* Names of persons signing in any capacity must be typed or printed below their signature.

Exhibit A

Description of the Land

A parcel of land in the Northwest One-quarter (1/4) of Section Fifteen (15), Township Eight (8) North, Range Twenty-one (21) East, in the City of Milwaukee, Milwaukee County, Wisconsin, more particularly described as follows: Commencing at the Southwest corner of said 1/4 Section; running thence North along the West line of said 1/4 Section, 1328.24 feet to a point in the extended center line of a 20 foot sewer easement; thence North 88°54'49" East along said center line of the 20 foot sewer easement and

its extension, 468:61 feet to the point of beginning of the land to be described; thence South 0°01'16" East, 1055.57 feet to a point; thence North 88°57'47" East, 408.99 feet to a point in the present West line of North 73rd Street; thence North 0°02'25" West along the said present West line of North 73rd Street, 1055.90 feet to a point; thence South 88°54'49" West along the center line of a 20 foot sewer easement, 408.60 feet to the point of beginning.

Schedule B

Existing Liens

1. All those exceptions to title set forth on Schedule B to Loan Policy No. 440270M issued by Lawyers Title Insurance Corporation.

2. Those liens and security interests granted in favor of the Term Collateral Agent disclosed by the Intercreditor Agreement.

THIS INSTRUMENT WAS DRAFTED BY:

Kevin Oliver, Esq.
Skadden, Arps, Slate, Meagher, & Flom LLP
300 South Grand Avenue
Los Angeles, California 90071

Maximum principal indebtedness for Tennessee Recording Tax purposes is $7,000,000.

DEED OF TRUST, ASSIGNMENT OF LEASES, RENTS AND PROFITS AND SECURITY AGREEMENT

DOUGLAS DYNAMICS, L.L.C.

Grantor

to

FREDERIC H. BRANDT, ESQ.,
a resident of Washington County, Tennesee

Trustee

for the benefit of

JPMORGAN CHASE BANK, N.A.
in its capacity as Collateral Agent for the Secured Parties
111 East Wisconsin Ave., Floor 15
Milwaukee, WI 53202-4815

Beneficiary

DATED: As of May 21, 2007

Premises located in:
Washington County, Johnson City, Tennessee

Record and Return to:
Skadden Arps Slate Meagher & Flom LLP
300 South Grand Avenue
Los Angeles, California 90071
Attn: Eric Lee, Esq.

INDEX

DEED OF TRUST, ASSIGNMENT OF LEASES, RENTS AND PROFITS AND SECURITY AGREEMENT

THIS DEED OF TRUST, ASSIGNMENT OF LEASES, RENTS AND PROFITS AND SECURITY AGREEMENT(this **"Deed of Trust"**) made as of this 21st day of May, 2007 by **DOUGLAS DYNAMICS, L.L.C.** (formerly known as New DD, LLC), a Delaware limited liability company having an office at 7777 North 73rd Street, Milwaukee, Wisconsin 53223 (the **"Grantor"**), to **FREDERIC H. BRANDT,** a resident of Washington County, Tennessee, whose address is c/o Brandt and Beeson, P.C., 206 Princeton Road, Suite 25, Johnson City, TN 37601 (including any successor trustee at the time of acting as such hereunder, the **"Trustee"**), for the benefit of **JPMORGAN CHASE BANK, N.A. ("JPMorgan"**), as collateral agent (in such capacity, and together with its successors and assigns, the **"Beneficiary"**), having an office at 111 East Wisconsin Ave., Floor 15, Milwaukee, WI 53202-4815, Attention: Michael A. Hintz, Account Executive — ABL, for the Secured Parties (as such term and other capitalized terms used but not otherwise defined herein are defined in the Credit Agreement, defined below).

THIS INSTRUMENT COVERS PROPERTY WHICH IS OR MAY BECOME SO AFFIXED TO THE REAL PROPERTY AS TO BECOME FIXTURES AND ALSO CONSTITUTES A UCC FINANCING STATEMENT FILED AS A FIXTURE FILING UNDER § 47-9-502 OF TENNESSEE CODE ANNOTATED.

GRANTOR IS THE RECORD OWNER OF THE PROPERTY DESCRIBED IN EXHIBIT A.

THE BENEFICIARY EXPRESSLY OBJECTS TO THE PRIORITY OF ANY MECHANICS' OR MATERIALMEN'S LIENS IMPOSED SUBSEQUENT TO THE DATE OF THE RECORDATION OF THIS DEED OF TRUST AS SUCH PRIORITY WOULD OTHERWISE BE ALLOWED PURSUANT TO THE TERMS OF T.C.A. § 66-11-108.

NOTICE PURSUANT TO § 47-28-104 OF TENNESSEE CODE ANNOTATED: THIS DEED OF TRUST SECURES FUTURE ADVANCES WHICH ARE "OBLIGATORY ADVANCES" WITHIN THE MEANING OF THE AFORESAID STATUTE. THIS DEED OF TRUST IS FOR "COMMERCIAL PURPOSES WITHIN THE MEANING OF SAID STATUTE.

W I T N E S S E T H:

WHEREAS, Grantor is the owner of the fee interest in those certain parcels of land lying and being situated in Washington County, Tennessee, as more particularly described in Exhibit A attached hereto;

WHEREAS, Grantor, Fisher, LLC, a Delaware limited liability company ("**Fisher**") and Douglas Dynamics Finance Company, a Delaware corporation ("**DD Finance**"), as Borrowers, Douglas Dynamics Holdings, Inc., a Delaware corporation

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("**Holdings**"), as Guarantor, the banks and financial institutions having Revolving Loan Commitments (as defined therein) or listed on the signature pages thereof (together with their respective successors and assigns, each individually referred to herein as a "**Lender**" and collectively as "**Lenders**"), Credit Suisse, Cayman Islands Branch, as sole bookrunner, sole lead arranger, syndication agent, documentation agent and administrative agent for the Lenders ("**ABL Administrative Agent**"), and JPMorgan, as collateral agent for the Lenders, have entered into that certain Credit and Guaranty Agreement, dated as of May 21, 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the **"Credit Agreement"**), pursuant to which Lenders have agreed to make, and Beneficiary has agreed to administer, certain credit facilities in an aggregate amount not to exceed $60,000,000, which extensions of credit shall be used for the purposes permitted under the Credit Agreement, upon the terms and conditions contained in the Credit Agreement; and

WHEREAS, Grantor has agreed to execute and deliver to Trustee for the benefit of Beneficiary this Deed of Trust in order to secure Grantor's performance of Grantor's obligations under the Credit Agreement and under any of the other Credit Documents;

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and other good and valuable consideration, including Beneficiary's entering into the Credit Agreement, the receipt and legal sufficiency of which are hereby expressly acknowledged by all parties, to secure the full and complete payment and performance of the Obligations, including Grantor's performance of Grantor's obligations pursuant to the Credit Agreement, this Deed of Trust and the other Credit Documents, Grantor and Beneficiary hereby agree as follows:

Grantor does hereby irrevocably GRANT, PLEDGE, MORTGAGE, WARRANT, SELL, TRANSFER, ASSIGN, and CONVEY unto Trustee and Trustee's successors, assigns and substitutes in trust hereunder, with covenants of general warranty and **WITH POWER OF SALE** and right of entry and possession, for the use and benefit of Beneficiary, as collateral agent for the Lenders, the real and personal property, rights, titles, interests and estates constituting the Property (defined below), subject, however, to the Permitted Liens and Existing Liens (defined below) **TO HAVE AND TO HOLD** the Property unto Trustee and Trustee's successors, assigns and substitutes in trust hereunder, subject to the terms and conditions of this Deed of Trust, **WITH POWER OF SALE**, forever, and Grantor does hereby bind itself, its successors and assigns to WARRANT AND FOREVER DEFEND the title to the Property unto Beneficiary against every person whomsoever lawfully claiming or to claim the same or any part thereof other than any person claiming by, through or under Beneficiary; provided, however, that if Grantor (i) shall perform all obligations hereunder and (ii) the Obligations are paid in full, the Commitments are cancelled or terminated and all outstanding Letters of Credit are cancelled or have expired, then the liens, security interests, estates and rights granted by this Deed of Trust shall be terminated by Beneficiary by execution of a discharge of this Deed of Trust in recordable form and delivery of the discharge to Grantor or Grantor's designee.

All of the foregoing being collectively referred to as the **"Property"**:

A. All that certain land located in Washington County, Tennessee and more particularly described in Exhibit A annexed hereto and made a part hereof (collectively, the **"Land"**).

B. All the buildings, structures and improvements, now or at any time hereafter erected on the Land or any part thereof (collectively, the**"Buildings"**).

C. All machinery, apparatus, equipment, personal property and fixtures of every kind and nature whatsoever now or hereafter located in, on or about any one or more of the Buildings or upon the Land, or attached to or used or useable in connection with the operation or maintenance of the Land or any one or more of the Buildings, or any part thereof, and now owned or hereafter acquired (collectively, the **"Building Equipment"**; the Land, the Buildings and the Building Equipment being hereafter sometimes collectively referred to as the **"Premises"**).

D. All right, title and interest of Grantor, whether now owned or hereafter acquired, in and to any opened or proposed avenues, streets, roads, public places, sidewalks, alleys, strips or gores of land, in front of or adjoining the Land or any one or more of the Buildings and all easements, tenements, hereditament, appurtenances, rights and rights of way, public or private, pertaining or belonging to the Land or any one or more of the Buildings.

E. All insurance proceeds and all awards and payments, subject to applicable provisions of this Deed of Trust, including interest thereon, and the right to receive the same, which may be made in respect of all or any part of any of the Premises or any estate or interest therein or appurtenant thereto, as a result of damage to or destruction of all or any part of any of the Premises, the exercise of the right of condemnation or eminent domain, the closing of, or the alteration of the grade of, any street on or adjoining the Land, or any other injury to or decrease in the value of all or any part of any of the Premises.

F. All right, title and interest of Grantor in and to any and all present and future Leases (as defined inParagraph 49) of all or any part of the Premises, and in and to the rents, issues and profits payable thereunder and cash or securities deposited thereunder as lessees' security deposits.

G. All franchises, permits, licenses and rights therein respecting the use, occupation and operation of the Premises or the activities conducted thereon or therein.

H. All right, title and interest of Grantor in and to any minerals, oil or gas located on, under or appurtenant to the Land.

I. All right, title and interest of Grantor in and to any tax refunds with respect to the Premises.

J. To the extent assignable, all of Grantor's interest in and to all agreements, contracts, certificates, instruments and other documents, now or hereafter entered into, pertaining to the construction, operation or management of the Premises and all right, title and interest of Grantor therein (collectively, the **"Contracts"**).

K. All of Grantor's interest in and to all easements, rights, licenses, privileges and appurtenances including, without limitation, development and air rights now or hereafter belonging or in any way appertaining to the Land.

L. All of the estate and rights of Grantor now or hereafter acquired in and to land lying in streets, roads, ways and alleys, open or proposed, adjoining or contiguous to the Land.

M. The rents, issues and profits of any of the foregoing.

AND GRANTOR COVENANTS, REPRESENTS AND WARRANTS TO AND FOR THE BENEFIT OF TRUSTEE, BENEFICIARY AND THE SECURED PARTIES AS FOLLOWS:

1. Payment of Obligations and Performance of Covenants and Agreements Grantor shall pay or perform the Obligations when due in accordance with the provisions of the Credit Agreement, this Deed of Trust, and the other Credit Documents and perform the covenants and agreements of Grantor set forth in the Credit Documents.

2. Title to Property Grantor represents and warrants that (a) it owns good and marketable fee simple title to the Premises, (b) it has the good and unrestricted right, full power and lawful authority to make this Deed of Trust in accordance with the terms hereof, (c) Grantor has obtained any and all consents and approvals necessary or required for the making of this Deed of Trust, and the making of this Deed of Trust will not violate any contract or agreement to which Grantor is a party or by which the Property is bound, and (d) the Premises is free of all liens, encumbrances, adverse claims and other defects of title whatsoever except those items listed on Exhibit B annexed hereto and made a part hereof (collectively, the **"Existing Liens"**) and Permitted Liens. Grantor does hereby and shall forever warrant and defend its title to and interest in the Property and the validity and priority of the lien of this Deed of Trust, subject to the Existing Liens and the Permitted Liens, to Beneficiary and the Secured Parties, their respective successors and assigns, against all claims and demands whatsoever of any Person or Persons. As of the date hereof, there are no defenses or offsets to this Deed of Trust or to the Obligations.

3. Intercreditor Agreement Notwithstanding anything herein to the contrary, and regardless of the priority of recordation of this Deed of Trust, the lien and security interests granted to the Beneficiary pursuant to this Deed of Trust and the exercise of any right or remedy by such Beneficiary hereunder are subject to the provisions of that certain Intercreditor Agreement, dated as of May 21, 2007 (the "**Intercreditor Agreement**"), by and among Grantor, Fisher, DD Finance, Holdings,

Beneficiary, ABL Administrative Agent, and Credit Suisse, Cayman Islands Branch, in its capacities as collateral agent (together with its successors and assigns from time to time in such capacity, the "**Term Collateral Agent**") and administrative agent under the Term Loan Documents (as defined therein). In the event of any conflict between the terms of the Intercreditor Agreement and this Deed of Trust, the terms of the Intercreditor Agreement shall govern.

4. Future Advances Without limiting the generality of any other provision hereof, or the terms and provisions of the Credit Agreement, the Obligations shall include, without limitation: (a) all existing indebtedness of Grantor to Beneficiary and/or any of the Secured Parties evidenced by any of the Credit Documents; (b) all future advances that may subsequently be made by Beneficiary and/or the Lenders as provided by any of the Credit Documents; and (c) all other indebtedness, if any, of Grantor to Beneficiary and/or any of the Secured Parties now due or to become due or hereafter contracted pursuant to any of the Credit Documents; provided that the maximum principal amount of all existing indebtedness, future advances, readvances of sums repaid and all other indebtedness secured hereby at any one time shall not exceed the total sum of $7,000,000 (exclusive of interest thereon, attorneys' fees and costs, taxes, insurance premiums and all other obligations hereunder).

5. Insurance

(a) Grantor shall maintain in full force and effect with respect to the Premises the insurance as required by Section 5.5 of the Credit Agreement.

(b) In the event of a foreclosure of this Deed of Trust or other action or proceeding taken by Beneficiary pursuant to this Deed of Trust, the purchaser of the Premises shall succeed to all of the rights of Grantor, including any right to unearned premiums, in and to all policies of insurance which Grantor is required to maintain under Paragraph 5(a) and to all proceeds of such insurance.

6. Impositions

(a) Grantor shall pay, not later than the final delinquency date thereof, all real estate taxes, personal property taxes, assessments, water rates and sewer rents, license fees, all charges which may be imposed for the use of vaults, chutes, areas and other space beyond the lot line and abutting the public sidewalks in front of or adjoining the Land, and any other amounts which could be or become a lien upon or against the Property or any part thereof (collectively, the **"Impositions"**); provided, no such Imposition need be paid if it is being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, so long as adequate reserve or other appropriate provision, as shall be required in conformity with GAAP shall have been made therefor. Notwithstanding the foregoing, Grantor shall promptly, and in any event on demand, pay such contested Imposition if at any time all or any part of the Property shall be in danger of being foreclosed, sold, forfeited, or otherwise lost or if such contest shall be discontinued. During the continuance of any Event of Default, upon demand by Beneficiary, Grantor will pay the whole of any assessment (an **"Assessment"**) for local

improvements which may be payable in installments, notwithstanding that such installments may not be due and payable at the time of such demand.

(b) Grantor shall, upon request of Beneficiary, deliver to Beneficiary, within twenty (20) days after the final delinquency date thereof of any Imposition or Assessment, receipts evidencing such payment or other proof of payment satisfactory to Beneficiary.

7. Maintenance and Alterations Grantor will maintain or cause to be maintained in good repair, working order and condition, ordinary wear and tear excepted, the Premises and from time to time will make or cause to made all appropriate repairs, renewals and replacements thereof.

8. Leasing Grantor represents that there are no Leases now in effect. Grantor shall not enter into any Lease of all or any part of any of the Premises without in each instance obtaining Beneficiary's prior written consent thereto, which consent shall not be unreasonably withheld, conditioned or delayed. Grantor shall deliver to Beneficiary a duplicate original of each Lease promptly after the execution thereof. At the option of Beneficiary, each Lease, and all renewals, replacements, extensions, and modifications thereof, and all rights of the tenant thereunder, shall be subject and subordinate to this Deed of Trust, and to each and every advance made or thereafter made hereunder or under the other Credit Documents and to all renewals, additions, amendments, supplements, modifications, consolidations, spreaders, replacements, and extensions of this Deed of Trust and shall contain provisions obligating the tenants thereunder to attorn to Beneficiary or any purchaser therefrom if Beneficiary or such purchaser succeeds to the interest of Grantor under such Lease. Grantor shall fully and promptly perform all of the obligations to be performed by the lessor under any and all Leases. Grantor shall enforce the performance and observance of each and every obligation to be performed or observed by the lessees under such Leases. Grantor shall give prompt notice to Beneficiary of (a) any notice received by Grantor of any default by the lessor under any Lease, (b) the commencement of any action or proceeding by any lessee the purpose of which shall be the cancellation of any Lease or a diminution or abatement of the rent payable thereunder, (c) any notice of default given by Grantor to the lessee under any Lease, or (d) the interposition by any lessee of any defense or counterclaim in any action or proceeding brought by Grantor against such lessee; and Grantor will cause a copy of any process, pleading or notice received or served by Grantor in reference to any such action, defense or claim to be promptly delivered to Beneficiary. Grantor shall hold in trust all security deposits and advance rent given on account of any Lease, and deposit such security in a bank or trust

company and shall not mingle such funds with other funds. Grantor shall repay or apply such funds only in accordance with the provisions of the applicable Leases.

9. Recording, Filing and Other Fees Grantor shall pay all recording and filing fees, all recording taxes, and all other costs and expenses in connection with the preparation, execution and recordation and other manner of perfection of this Deed of Trust and any other Credit Documents, and shall reimburse Beneficiary and each of the Secured Parties on demand for all costs and expenses of any

kind incurred by Beneficiary or any of the Secured Parties in connection therewith (including, without limitation, reasonable attorneys' fees and disbursements). Grantor will, at any time on request of Beneficiary, execute or cause to be executed financing statements, continuation statements, or the like, in respect of any Building Equipment. Grantor shall pay all filing fees, including fees for filing continuation statements, in connection with such financing statements.

10. Taxes Imposed on Beneficiary and the Secured Parties Grantor shall pay all taxes (except income, inheritance and franchise taxes, taxes on the receipt of debt service payments, or taxes in lieu of any of the foregoing) imposed on Beneficiary or any of the Secured Parties by reason of its ownership of this Deed of Trust or any of the other Credit Documents.

11. Compliance with Laws, etc. Grantor shall comply with the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority (including Environmental Laws), noncompliance with which could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

12. Inspection Beneficiary and its authorized representatives shall have the right, at Beneficiary's option, at reasonable times during normal business hours and upon reasonable prior written notice, and as often as may be reasonably requested, to enter the Premises for the purpose of inspecting the same and any other Collateral.

13. Certificate of Grantor Grantor, upon request of Beneficiary or any of the Secured Parties, shall certify to Beneficiary or to such Secured Party or to any proposed assignee of or participant in this Deed of Trust, by an instrument in form reasonably satisfactory to Beneficiary or such Secured Party, duly acknowledged, the amount of the Obligations then owing, whether any offsets or defenses exist against payment or performance of all or any portion of the Obligations and anything else that Beneficiary or such Secured Party might reasonably request, within ten (10) days if the request is made personally, or within fifteen (15) days if the request is made by mail. Beneficiary, Secured Parties and any actual or proposed assignee of or participant in this Deed of Trust shall have the right to rely on such certification.

14. Condemnation Grantor shall give notice to Beneficiary upon Grantor receiving written notice of the commencement of any action or proceeding to take all or any part of the Premises by exercise of the right of condemnation or eminent domain or of any action or proceeding to close or to alter the grade of any street on or adjoining the Land. Beneficiary may participate in any such action or proceeding in the name of Beneficiary or, whenever necessary, in the name of Grantor, and Grantor shall deliver to Beneficiary such instruments as Beneficiary shall request to permit such participation. Grantor shall not settle any such action or proceeding or agree to accept any award or payment without the prior written consent of Beneficiary (which consent shall not be unreasonably withheld, conditioned or delayed), and such award or payment and any interest thereon (hereinafter collectively called the **"Award"**) shall be applied in accordance withSection 2.14(b) and Section 2.15 of the Credit Agreement.

(a) The application of any Award toward payment of the Obligations shall not be deemed a waiver by Beneficiary or any of the Secured Parties of its right to receive payment of the balance of the Obligations in accordance with the provisions of the Credit Documents. Beneficiary shall have the right, but shall be under no obligation, to question the amount of the Award, and Beneficiary may accept the same without prejudice to the rights that Beneficiary may have to question such amount. In any such condemnation or eminent domain action or proceeding Beneficiary may be represented by attorneys selected by Beneficiary, and all sums paid by Beneficiary in connection with such action or proceeding (including, without limitation, reasonable attorneys' fees to the extent permitted by law) shall, on demand, be immediately due from Grantor to Beneficiary and the same shall be secured by this Deed of Trust.

(b) Notwithstanding any taking by condemnation or eminent domain, closing of, or alteration of the grade of, any street or other injury to or decrease in value of the Premises by any public or quasi-public authority or corporation, the unpaid principal portion of the Advances shall continue to bear interest at the rate payable pursuant to the applicable Credit Documents until the Award shall have been actually received by Beneficiary, and any reduction in the Obligations resulting from the application by Beneficiary of the Award shall be deemed to take effect only on the date of such receipt.

15. Restoration If the Buildings or the Building Equipment shall be damaged or destroyed, in whole or in part, by fire or other casualty, or by any taking in condemnation proceedings or the exercise of any right of eminent domain, Grantor shall promptly restore, replace or rebuild the same to as nearly as possible the value, quality and condition they were in immediately prior to such fire or other casualty or taking, with such alterations or changes as may be approved in writing by Beneficiary which approval shall not be unreasonably withheld or delayed, or apply the amount of any Award or insurance proceeds received with respect thereto, in each case in accordance with Section 2.14(b) and Section 2.15 of the Credit Agreement. Grantor shall give prompt notice to Beneficiary of any damage or destruction to the Buildings or Building Equipment by fire or other casualty, as well as the initiation of any condemnation or eminent domain proceeding affecting the same.

16. Default

(a) Any Event of Default under the Credit Agreement shall constitute an Event of Default hereunder and Beneficiary shall have all of the rights of the Administrative Agent and Collateral Agent under the Credit Agreement and all of the remedies hereunder.

(b) All notice and cure periods provided in the Credit Agreement shall run concurrently with any notice and cure periods provided under applicable law.

17. Beneficiary's Right to Perform Grantor's Covenants If there shall be an Event of Default, Beneficiary may, at its option, cure such Event of Default, and Beneficiary and its representatives shall have the right to enter the Premises to do so, and

the amounts advanced by, and the other costs and expenses of, Beneficiary in curing such Event of Default, with interest from the time of the advances or payments at the Base Rate plus the Applicable Margin, shall, on demand, be immediately due from Grantor to Beneficiary and shall be secured by this Deed of Trust.

18. Contemporaneous Mortgages THIS DEED OF TRUST IS MADE CONTEMPORANEOUSLY WITH TWO (2) OTHER MORTGAGES OR DEEDS OF TRUST OF EVEN DATE HEREWITH (as any of the same may be amended, supplemented, restated, severed, consolidated, spread, partially released, increased or otherwise modified from time to time, the **"Contemporaneous Mortgages"**) GIVEN TO BENEFICIARY COVERING PROPERTY LOCATED IN THE

STATES OF MAINE AND WISCONSIN. The Contemporaneous Mortgages secure the Obligations. Upon the occurrence of an Event of Default, Beneficiary may proceed under this Deed of Trust and/or the Contemporaneous Mortgages against any of such property and/or the Property in one or more parcels and in such manner and order as Beneficiary shall elect. Grantor hereby irrevocably waives and releases, to the extent permitted by law, whether now or hereafter in force, any right to have the property and/or the Property covered by the Contemporaneous Mortgages marshaled upon any foreclosure of this Deed of Trust or the Contemporaneous Mortgages.

19. Appointment of Attorney-in-Fact Grantor hereby constitutes and appoints Beneficiary the true and lawful attorney-in-fact, coupled with an interest, of Grantor and Grantor hereby confers upon Beneficiary the right, in the name, place and stead of Grantor, to, demand, sue for, attach, levy, recover and receive after the occurrence and during the continuance of an Event of Default any of the Rents (as defined in Paragraph 49) and any premium or penalty payable upon the exercise by any third Person under any Lease of a privilege of cancellation originally provided in such Lease and to give proper receipts, releases and acquittances therefor and, after deducting actual out of pocket expenses of collection, to apply the net proceeds as provided in the Credit Agreement or otherwise reasonably determined by Beneficiary after consultation with Grantor; and Grantor does hereby authorize and direct any such third party to deliver such payment to Beneficiary in accordance with this Deed of Trust, and Grantor hereby ratifies and confirms all that its said attorney-in-fact, the Beneficiary, shall do or cause to be done by virtue of the powers granted hereby. The foregoing appointment is irrevocable and continuing, and such rights, powers and privileges shall be exclusive in Beneficiary, and its successors and assigns, so long as any part of the Obligations other than any contingent indemnity and expense reimbursement obligations for which a claim has not been made remain unpaid or unperformed and undischarged.

Upon the occurrence and during the continuance of an Event of Default, Grantor hereby constitutes and appoints Beneficiary the true and lawful attorney-in-fact, coupled with an interest, of Grantor and Grantor hereby confers upon Beneficiary the right, in the name, place and stead of Grantor, to subject and subordinate at any time and from time to time any Lease to the lien, assignment and security interest of this Deed of Trust, or to any other mortgage, deed of trust, assignment or security agreement, or to any ground lease or surface lease, with respect to all or a portion of the Property, or to request or require such subordination, where such reservation, option or authority was reserved to

Grantor under any such Lease, or in any case where Grantor otherwise would have the right, power or privilege so to do. The foregoing appointment is irrevocable and continuing, and such rights, powers and privileges shall be exclusive in Beneficiary, and its successors and assigns, so long as any part of the Obligations other than any contingent indemnity and expense reimbursement obligations for which a claim has not been made remain unpaid or unperformed and undischarged.

20. Power of Sale Subject to the terms of the Credit Agreement, if an Event of Default shall occur and be continuing, Beneficiary shall have the right and option to proceed with foreclosure by directing Trustee, or Trustee's successors or substitutes in trust, to proceed with foreclosure and to sell, to the extent and in the manner permitted by applicable law, all or any portion of the Property at one or more sales, as an entirety or in parcels, at the door of the courthouse in Washington County, Tennessee, at which foreclosure sales are customarily held, at public auction, to the highest bidder for cash, free from equity of redemption, and any statutory or common law right of redemption, homestead, dower, marital share, and all other exemptions all of which are expressly waived by Grantor, after giving notice of the time, place and terms of such sale and of the Property to be sold, by advertising the sale of the property for twenty-one (21) days by three (3) weekly notices (the first of which must be at least twenty (20) days previous to such sale) in some newspaper published in the county and state where the Property is situated, which notice may be given before or after entry by the Trustee. The Trustee shall execute a conveyance to the purchaser in fee simple and deliver possession to the purchaser, which Grantor warrants shall be given without obstruction, hindrance or delay. Where the Property is situated in more than one county, notice as above provided shall be posted and filed in all such counties (if such notices are required by applicable law), and all such Property may be sold in any such county and the notice of such sale shall designate the county where such Property is to be sold. Nothing contained in this Paragraph 20 shall be construed so as to limit in any way Beneficiary's rights to sell the Property, or any portion thereof, by private sale if, and to the extent that, such private sale is permitted under the laws of the applicable jurisdiction or by public or private sale after entry of a judgment by any court of competent jurisdiction so ordering. Grantor hereby irrevocably appoints Beneficiary to be, upon the occurrence and during the continuance of an Event of Default, the attorney-in-fact of Grantor (coupled with an interest) and in the name and on behalf of Grantor to execute and deliver any deeds, transfers, conveyances, assignments, assurances and notices which Grantor ought to execute and deliver, and to do and perform any other acts or things which Grantor ought to do and perform under the covenants herein contained and, generally, to use the name of Grantor in the exercise of any of the powers hereby conferred on Beneficiary. At any such sale: (a) whether made under the power herein contained or any other legal enactment, or by virtue of any judicial proceedings or any other legal right, remedy or recourse, it shall not be necessary for Beneficiary to have physically present, or to have constructive possession of, the Property (Grantor hereby covenanting and agreeing to deliver to Beneficiary any portion of the Property not actually or constructively possessed by Beneficiary immediately upon demand by Beneficiary) and the title to and right of possession of any such property shall pass to the purchaser thereof as completely as if the same had been actually present and delivered to purchaser at such sale; (b) each instrument of conveyance executed by Beneficiary shall contain a general warranty of

title, binding upon Grantor and its successors and assigns; (c) each and every recital contained in any instrument of conveyance made by Beneficiary shall conclusively establish the truth and accuracy of the matters recited therein, including, without limitation, nonpayment and/or nonperformance of the Obligations and advertisement and conduct of such sale in the manner provided herein and otherwise required by applicable law; (d) any and all prerequisites to the validity thereof shall be conclusively presumed to have been performed; (e) the receipt of Beneficiary, or of such other party or officer making the sale, shall be a sufficient discharge to the purchaser for its purchase money and neither such purchaser nor its assigns or personal representatives shall thereafter be obligated to see to the application of such purchase money, or be in any way answerable for any loss, misapplication or non-application thereof; (f) to the fullest extent permitted by applicable law, Grantor shall be completely and irrevocably divested of all of its right, title, interest, claim and demand whatsoever, either at law or in equity (including any statutory or common law right of redemption, which is hereby waived to the fullest extent permitted by applicable law), in and to the property sold in any such event, and such sale shall be a perpetual bar, both at law and in equity, against Grantor and any and all other persons claiming by, through or under Grantor; and (g) to the extent and under such circumstances as are permitted by applicable law, Beneficiary may be a purchaser at any such sale, and shall have the right, after paying or accounting for all costs of said sale or sales, to credit the amount of the bid upon the amount of the Obligations in lieu of cash payment. Each remedy provided in this Deed of Trust is distinct from and cumulative with all other rights and remedies provided hereunder or afforded by applicable law or equity, and may be exercised concurrently, independently or successively, in any order whatsoever.

21. Application of Proceeds of Foreclosure and Other Remedies All amounts received by Beneficiary pursuant to the exercise of remedies hereunder shall be applied first to expenses due Beneficiary or Trustee including, but not limited to, expenses of foreclosure and all expenses incurred in leasing the Property, retaining a managing agent therefor, or fulfilling Grantor's obligations under any Lease, including attorneys fees; second, to interest included in the Indebtedness; third, to principal included in the Indebtedness, in such order as Beneficiary may elect; and the surplus, if any, shall be paid to the party or parties entitled thereto.

22. Waiver of Redemption Rights Any sale of any or all of the Property pursuant to the power of sale or judicial sale provided for herein or in realization of the security interest granted herein shall be made free from the equity of redemption, statutory right of redemption, homestead, dower, curtesy, exemption rights, and all other rights and interests of Grantor, all of which are hereby expressly waived.

23. Judicial Foreclosure After the occurrence and during the continuance of an Event of Default, Beneficiary may institute an action of foreclosure, or take such other action as the law may allow, at law or in equity, for the enforcement hereof and realization on the Property or any other security which is herein or elsewhere provided for, and proceed thereon to final judgment and execution thereon for the entire principal then outstanding under the Credit Documents, with interest thereon at the rate stipulated in the Credit Documents to the date of default and thereafter at the default

interest rate specified in Section 2.9 of the Credit Agreement together with all other sums secured by this Deed of Trust, all costs of suit, including, without limitation, the expenses which are described in Paragraphs 27 and 31, and interest at the default interest rate specified in Section 2.9 of the Credit Agreement on any judgment obtained by Beneficiary from and after the date of any judicial sale of any of the Property until actual payment. Upon any sale or sales made hereunder, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Beneficiary and/or any of the Secured Parties may bid for and acquire any of the Property or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting against the Obligations the net sales price after deducting therefrom the expenses of the sale and the costs of the action and any other sums which Beneficiary is authorized to deduct under this Deed of Trust. Except as otherwise provided in the Credit Agreement, the proceeds of such sale shall be applied first to the payment of the costs and charges of such sale, including, without limitation, Beneficiary's attorneys' fees, (to the extent permitted by law), and second to the payment of the Obligations, the surplus money, if any, to be paid to the Person(s) legally entitled thereto (including Grantor, to the extent so entitled, if at all). Upon the request of Beneficiary and to the extent not prohibited by applicable law, Grantor shall execute and file with the clerk of the court a legally sufficient waiver of any statutory waiting period with respect to the execution of a judgment obtained by Beneficiary in connection with any foreclosure proceedings. The obligation of Grantor to so execute and file such waiver shall survive the termination of this Deed of Trust. Following a foreclosure sale, the sheriff shall deliver to the purchaser the sheriff's deed (and bill of sale as to any personalty) conveying the property so sold without any covenant or warranty, express or implied.

24. Sale in Parcels In the event of a foreclosure of this Deed of Trust or upon any sale under this Deed of Trust pursuant to judicial proceedings or otherwise, the Property may be sold in one parcel and as an entirety or in such parcels, manner or order as Beneficiary in its sole discretion may select.

25. Notice Upon Acceleration Whenever Beneficiary in this Deed of Trust is given the option to accelerate the maturity of all or part of the Obligations upon the occurrence of an Event of Default, Beneficiary may, to the extent permitted by law, do so without prior notice or demand to or upon Grantor except as otherwise specifically provided herein.

26. Possession of Premises To the extent permitted by law, after the occurrence and during the continuance of an Event of Default, Beneficiary and its agents and any receiver appointed by a court are authorized to (a) take possession of the Premises, with or without legal action, and by force if necessary; (b) lease the Premises or make modifications to or cancel Leases; (c) maintain, repair, alter, and restore the Premises; (d) with or without taking possession, collect all Rents and profits payable under all Leases directly from the lessees thereunder upon notice to each such lessee that an Event of Default exists under this Deed of Trust accompanied by a demand on such lessee for the payment to Beneficiary of all Rents due and to become due under its Lease, and Grantor FOR THE BENEFIT OF BENEFICIARY AND EACH SUCH LESSEE

hereby covenants and agrees that the lessee shall be under no duty to question the accuracy of Beneficiary's statement of default and shall unequivocally be authorized to pay said Rents to Beneficiary without regard to the truth of Beneficiary's statement of an Event of Default and notwithstanding notices from Grantor disputing the existence of an Event of Default such that the payment of rent by the lessee to Beneficiary pursuant to such a demand shall constitute performance in full of the lessee's obligation under the Lease for the payment of Rents by the lessee to Grantor; and (e) after deducting all costs of collection and administration expense, apply the net Rents and profits to the payment of Impositions, insurance premiums and all other carrying charges (including, without limitation, agents' compensation and fees and reasonable costs of counsel to the extent permitted by law, and receivers) and to the maintenance, repair or restoration of the Premises, or, except as otherwise provided in the Credit Agreement, on account and in reduction of the Obligations in such order and amounts as Beneficiary in Beneficiary's sole discretion may elect. Beneficiary shall be liable to account only for Rents and profits actually received by Beneficiary.

27. Expenses of Beneficiary and/or the Secured Parties All sums (including reasonable attorneys' fees and disbursements, to the extent permitted by law) paid by Beneficiary and/or any of the Secured Parties in connection with any litigation to prosecute or defend the rights and obligations created by this Deed of Trust, with interest thereon at the default interest rate specified in Section 2.9 of the Credit Agreement from the time of payment by Beneficiary and/or any of the Secured Parties shall, on demand, be immediately due from Grantor to Beneficiary and/or any such Secured Party and shall be added to and included in the Obligations and shall be secured by this Deed of Trust.

28. Grantor's Waivers

(a) Grantor, for itself and its successors and assigns, hereby irrevocably waives and releases, to the extent permitted by law, whether now or hereafter in force, (i) the benefit of any and all valuation and appraisement laws, (ii) any right of redemption whether statutory or otherwise, in respect of the Property, (iii) any applicable homestead or dower laws, (iv) all exemption laws whatsoever and all moratoriums, extensions or stay laws or rules, or orders of court in the nature of any one or more of them, (v) any right to have any of the Property marshaled upon foreclosure of this Deed of Trust, (vi) the right to interpose any set-off, recoupment, counterclaim or cross-claim in any litigation in any court with respect to, in connection with, or arising out of this Deed of Trust or any of the other Credit Documents unless such set-off, recoupment, counterclaim or cross-claim could not, by reason of the applicable Federal or State procedural laws, be interposed, pleaded or alleged in any other action, and (vii) trial by jury in connection with any litigation arising out of this Deed of Trust or any of the other Credit Documents and any right it may have to claim or recover in any such litigation any special, exemplary, punitive or consequential damages or any damages other than, or in addition to, actual damages.

(b) Beneficiary, for itself and its successors and assigns, hereby irrevocably waives and releases, to the extent permitted by law, whether now or hereafter

in force, trial by jury in connection with any litigation arising out of this Deed of Trust or any of the other Credit Documents.

29. Partial Foreclosure Beneficiary may from time to time, if permitted by law, take action to recover any sums, whether interest, principal or any other sums, required to be paid under this Deed of Trust or any other Credit Document as the same become due, without prejudice to the right of Beneficiary thereafter to bring an action of foreclosure, or any other action, for an Event of Default by Grantor existing when such earlier action was commenced. Beneficiary may also foreclose this Deed of Trust for any sums due under this Deed of Trust or any other Credit Document and the lien of this Deed of Trust shall continue to secure the balance of the Obligations due.

30. No Waiver; Rights Cumulative No failure or delay on the part of Beneficiary or any of the Secured Parties in the exercise of any power, right or privilege hereunder or under any other Credit Document shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other power, right or privilege. The rights, powers and remedies given to Beneficiary and each of the Secured Parties hereby are cumulative and shall be in addition to and independent of all rights, powers and remedies existing by virtue of any statute or rule of law or in any of the other Credit Documents. Any forbearance or failure to exercise, and any delay in exercising, any right, power or remedy hereunder shall not impair any such right, power or remedy or be construed to be a waiver thereof, nor shall it preclude the further exercise of any such right, power or remedy.

31. Attorneys' Fees If this Deed of Trust shall be foreclosed, or if any of the Credit Documents is placed in the hands of an attorney for collection or is collected through any court, including any bankruptcy court, there shall be included in the computation of the sums secured hereby, to the extent permitted by law, the amount of a reasonable fee for the services of the attorney retained by Beneficiary in the foreclosure action or proceeding, and all disbursements, costs, allowances and additional allowances provided by law.

32. Interest After Maturity The Obligations secured by this Deed of Trust shall bear interest from and after maturity, whether or not resulting from acceleration, at the default interest rate specified in Section 2.9 of the Credit Agreement, but this shall not constitute an extension of time for payment of the Obligations.

33. No Credit for Taxes Grantor shall not claim or demand or be entitled to any credit or credits on account of any of the sums secured hereby by reason of the Impositions assessed against all or any part of the Property or for any payments made on account thereof. No deductions shall be made or claimed from the taxable value of all or any part of the Premises by reason of this Deed of Trust.

34. Liens This Deed of Trust is and shall be maintained as a valid first lien on the Property subject only to any encumbrances created pursuant to the Credit Documents and the Existing Liens and the Permitted Liens, if any. Notwithstanding any

provision in the Credit Documents to the contrary, Grantor shall not, directly or indirectly, create or suffer or permit to be created, or to stand, against the Property or any portion thereof, or against the Rents, issues and profits therefrom, any lien, charge, mortgage, deed of trust, adverse claim or other encumbrance (herein collectively referred to as a **"lien"**), whether senior or junior in lien to this Deed of Trust, other than the lien of (i) this Deed of Trust and (ii) the Permitted Liens (including easements, rights-of-way, restrictions, encroachments, minor defects or irregularities in title and other similar charges, in each case which do not and will not interfere in any material respect with the use or value thereof; provided, however, that Grantor shall give Beneficiary at least twenty (20) days prior written notice of any Permitted Lien described in the parenthetical to clause (ii) above which is to be created after the date hereof together with a reasonably detailed description thereof; andprovided, further, that nothing contained in this Paragraph shall require Grantor to pay any real estate taxes or other Impositions prior to the time when same are required to be paid under this Deed of Trust. Grantor will keep and maintain all of the Premises free from all liens of Persons supplying labor or materials relating to the construction, alteration, modification or repair of the Premises. If any such lien shall be filed against any of the Property, Grantor agrees to discharge the same of record (by payment, bonding or otherwise) within 10 days of notice of the filing thereof. No financing statement, conditional bill of sale or chattel mortgage shall be made or filed against any Building Equipment without the prior consent of Beneficiary and if at any time there should be any (with or without the consent of Beneficiary), then upon the occurrence and during the continuance of an Event of Default, all right, title and interest of Grantor in and to all deposits and payments made thereon are hereby assigned to Beneficiary.

35. Change in Taxation In the event of the enactment of or change in (including, without limitation, a change in interpretation of) any applicable law (a) deducting or allowing Grantor to deduct from the value of the Property for the purpose of taxation any lien or security interest thereon, (b) imposing, modifying or deeming applicable any reserve or special requirement against deposits in or for the account of, or loans by, or other liabilities of, or other assets held by Beneficiary or any of the Secured Parties, or (c) subjecting Beneficiary or any of the Secured Parties to any tax or changing the basis of taxation of mortgages, deeds of trust, or other liens or debts secured thereby, or the manner of collection of such taxes, in each such case, so as to affect this Deed of Trust, the Obligations, Beneficiary or any of the Secured Parties, and the result is to increase the taxes imposed upon or the cost to Beneficiary or any of the Secured Parties of maintaining the Obligations, or to reduce the amount of any payments receivable hereunder or under the other Credit Documents, then, and in any such event, Grantor shall, on demand, pay to Beneficiary for the account of Beneficiary or any of the Secured Parties, as the case may be, such additional amounts as may be required to compensate for such increased costs or reduced amounts, provided that if any such payment or reimbursement shall be unlawful or would constitute usury under applicable law, then Beneficiary may, at its option, require Grantor to make a partial repayment of the Obligations in an amount equal to the then value of the Premises.

36. Assignment of Leases and Rents Grantor absolutely and unconditionally assigns to Beneficiary the Rents, issues and profits of the Premises as

further security for the payment of the Obligations and Grantor grants to Beneficiary during the existence of an Event of Default the right to enter the Premises for the purpose of collecting the same and to let the Premises, or any part thereof, and, except as otherwise provided in the Credit Agreement, to apply said Rents, issues and profits, after payment of all necessary charges and expenses, on account of the Obligations. This assignment and grant shall continue in effect until the payment in full of the Obligations, the cancellation or termination of the Commitments and the cancellation or expiration of all outstanding Letters of Credit. Beneficiary hereby waives the right to enter the Premises for the purpose of collecting said Rents, issues and profits, and Grantor shall be entitled to collect, receive and use said Rents, issues and profits, until the occurrence and during the continuance of and Event of Default. During the continuance of any Event of Default, the right of Grantor to collect, receive and use said Rents, issues and profits, shall be revoked forthwith. Further, from and after delivery of written notice of such revocation, constructive possession of the Premises shall be vested in Beneficiary, and this assignment shall be activated and perfected. Notwithstanding the foregoing, this assignment shall also be activated and perfected upon Beneficiary's exercising, upon the occurrence and during the continuance of an Event of Default, any of the following remedies pursuant to this Deed of Trust: (i) taking actual possession of the Premises; (ii) moving or applying for the appointment of a receiver; (iii) filing or commencing an action to foreclose this Deed of Trust; or (iv) collecting the Rents directly from the tenant(s). Grantor shall, from time to time after request by Beneficiary, execute, acknowledge and deliver to Beneficiary, in form reasonably satisfactory to Beneficiary, separate assignments effectuating the foregoing. Neither Beneficiary nor the Secured Parties shall be obligated to perform or discharge any obligation or duty to be performed or discharged by Grantor under any Lease or other agreement affecting all or any part of the Premises, and Grantor hereby agrees to indemnify Beneficiary and the Secured Parties for and hold them harmless from, any and all liability arising from any such Lease or other agreement or any assignments thereof, and no assignment of any such Lease or other agreement shall place the responsibility for the control, care, management or repair of all or any part of the Premises upon Beneficiary or the Secured Parties, nor make Beneficiary or the other Secured Parties liable for any negligence in the management, operation, upkeep, repair or control of all or any part of the Premises resulting in injury, death or property damage. In addition, after the occurrence and during the continuance of an Event of Default and following the giving of notice to Grantor, Grantor will pay monthly in advance to Beneficiary, or to any receiver appointed to collect said Rents, issues and profits, the fair and reasonable rental value for the use and occupancy of the Premises or of such part thereof as may be in the possession of Grantor, and upon default in any such payment will vacate and surrender the possession thereof to Beneficiary or to such receiver, and in default thereof may be evicted by summary or other proceedings.

37. Security Agreement It is the intention of the parties hereto that this instrument shall constitute a Security Agreement and a Financing Statement within the meaning of the Uniform Commercial Code as enacted in the state in which the Land is located with respect to the personalty and fixtures comprising a part of the Property, and that a security interest shall attach thereto for the benefit of Beneficiary, as secured party, to further secure the Obligations. Grantor hereby authorizes Beneficiary to file financing and continuation statements with respect to such collateral in which Grantor

has a mortgageable interest, without the signature of Grantor whenever lawful, and upon request, Grantor shall promptly execute financing and continuation statements in form satisfactory to Beneficiary to further evidence and secure Beneficiary's interest in such collateral, and shall pay all filing fees in connection therewith. In the event of the occurrence and during the continuance of an Event of Default, Beneficiary, pursuant to the applicable provision of the Uniform Commercial Code, shall have the option of proceeding as to both real and personal property in accordance with its rights and remedies in respect of the real property, in which event the default provisions of the Uniform Commercial Code shall not apply. The parties agree that in the event Beneficiary elects to proceed with respect to collateral constituting personalty or fixtures separately from

the real property, without demand, notice or advertisement whatsoever except that where an applicable statute requires reasonable notice of sale or the dispositions, the giving of ten (10) days' notice by Beneficiary to Grantor, shall be deemed to be reasonable notice thereof and Grantor waives any other notice with respect thereto.

38. No Release Neither Grantor nor any other Person now or hereafter obligated for the payment or performance of all or any portion of the Obligations shall be released from paying such Obligations and the lien of this Deed of Trust shall not be affected by reason of (a) the failure of Beneficiary or any of the Secured Parties to comply with any request of Grantor, or of any other Person so obligated, to take action to foreclose this Deed of Trust or otherwise enforce any of the provisions of this Deed of Trust or of any of the covenants and agreements of Grantor under the Credit Documents, (b) the release, regardless of consideration, of the whole or any part of the security held for the Obligations, (c) the release, regardless of consideration, of the obligations of any Person or Persons liable for payment or performance of all or any portion of the Obligations, or (d) any agreement or stipulation extending the time of payment or modifying the terms of any of the Credit Documents, and in the event of such agreement or stipulation, Grantor and all such other Persons shall continue to be liable under the Credit Documents, as amended by such agreement or stipulation, unless expressly released and discharged in writing by Beneficiary and the Secured Parties.

39. Notices All notices, consents and other communications provided for herein shall be sent to such Person's address as follows (or to such other address indicated in an unrevoked written notice from such Person given in accordance the terms of this Paragraph):

(a) if to Grantor, Douglas Dynamics, L.L.C., 7777 North 73rd Street, Milwaukee, WI 53223, Attention: Chief Executive Officer and President, Telecopy No.: (414) 354-8448, with a copy to Aurora Capital Group, 10877 Wilshire Boulevard, Suite 2100, Los Angeles, CA 90024, Attention: Secretary, Douglas Dynamics Holdings, Inc., Telecopier No.: (310) 824-2791, with a copy to Gibson, Dunn & Crutcher LLP, 333 S. Grand Avenue, Los Angeles, CA 90071, Attention: Jeff R. Hudson, Esq., Telecopy No.: 213-229-6332;

(b) if to Beneficiary or Collateral Agent, at JPMorgan Chase Bank, N.A., 111 East Wisconsin Ave., Floor 15, Milwaukee, WI 53202-4815, Attention: Attention: Michael A. Hintz, Account Executive — ABL, Telecopy No.: 414-977-6666, with a copy to Skadden Arps Slate Meagher & Flom LLP, 333 West Wacker Drive, Suite 2100, Chicago, IL 60606, Attention: Seth E. Jacobson, Esq., Telecopy No.: (312) 407-0411;

(c) if to any of the Secured Parties, at the address set forth below such Secured Party's name on the signature pages of the Credit Agreement.

Each notice hereunder shall be in writing and may be personally served, telexed or sent by telefacsimile or United States mail or courier service and shall be deemed to have been given when delivered in person or by courier service and signed for against receipt thereof, upon receipt of telefacsimile or telex, or three (3) Business Days after depositing it in the United States mail with postage prepaid and properly addressed; provided, no notice to Beneficiary shall be effective until received by Beneficiary.

40. Severability In case any provision in or obligation hereunder shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

41. Intentionally Deleted

42. Indemnification Against Liabilities Grantor will defend, indemnify, pay and hold harmless Beneficiary and the Secured Parties and their respective officers, partners, directors, trustees, employees, agents and Affiliates of Beneficiary and each of the Secured Parties from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind (including, without limitation, reasonable attorneys' fees and expenses) imposed upon or incurred by or asserted against Beneficiary and any of the Secured Parties by reason of (a) ownership of a mortgagee's/beneficiary's or participating lender's interest in the Property, (b) any accident or injury to or death of Persons or loss of or damage to or loss of the use of property occurring on or about the Premises or any part thereof or the adjoining sidewalks, curbs, vaults and vault spaces, if any, streets, alleys or ways, unless due to the willful misconduct of Beneficiary or such Secured Party, (c) any use, nonuse or condition of the Premises or any part thereof or the adjoining sidewalks, curbs, vaults and vault spaces, if any, streets, alleys or ways, (d) any failure on the part of Grantor to perform or comply with any of the terms of this Deed of Trust, (e) performance of any labor or services or the furnishing of any materials or other property in respect of the Premises or any part thereof made or suffered to be made by or on behalf of Grantor, (f) any negligence or tortious act on the part of Grantor or any of its agents, contractors, lessees, licensees or invitees, or (g) any work in connection with any alterations, changes, new construction or demolition of the Premises. All amounts payable to Beneficiary and the Secured Parties under this Paragraph shall be payable promptly on demand and shall be deemed indebtedness and Obligations secured by this Deed of Trust and any such amounts shall bear interest at the default interest rate

specified in Section 2.9 of the Credit Agreement from the date of such demand. In case any action, suit or proceeding is brought against Grantor, Beneficiary and/or any of the Secured Parties by reason of any such occurrence, Grantor, upon request of Beneficiary or any of the Secured Parties will, at Grantor's expense, resist and defend such action, suit or proceeding or cause the same to be resisted or defended by counsel designated by Beneficiary or such Secured Party and approved by Grantor.

43. No Oral Changes This Deed of Trust and its provisions cannot be changed, waived, discharged or terminated orally but only by an agreement in writing, signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

44. Governing Law THE PROVISIONS OF THIS DEED OF TRUST REGARDING THE CREATION, PERFECTION AND ENFORCEMENT OF THE LIENS AND SECURITY INTERESTS HEREIN GRANTED SHALL BE GOVERNED BY AND CONSTRUED UNDER THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED. ALL OTHER PROVISIONS OF THIS DEED OF TRUST AND THE RIGHTS AND OBLIGATIONS OF GRANTOR AND BENEFICIARY SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPALS THEREOF.

45. Construction This Deed of Trust shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument or any portion thereof to be drafted.

46. Headings Paragraph headings herein are included herein for convenience of reference only and shall not constitute a part hereof for any other purpose or be given any substantive effect.

47. After Acquired Property All property of every kind which is hereafter acquired by Grantor which, by the terms hereof, is required or intended to be subjected to the lien of this Deed of Trust shall, immediately upon the acquisition thereof by Grantor, and without any further giving of a deed of trust and/or mortgage, conveyance, assignment or transfer, become subject to the lien of this Deed of Trust.

48. Further Assurances Grantor shall execute, acknowledge and deliver to Beneficiary any documents and instruments which Beneficiary may reasonably request from time to time for the better assuring, conveying, assigning, transferring, confirming or perfecting of Beneficiary's security and rights under this Deed of Trust, in form and substance reasonably satisfactory to Beneficiary.

49. Definitions The following terms shall, for all purposes of this Deed of Trust, have the respective meanings herein specified unless the context otherwise requires and such meanings shall apply equally to the singular and plural forms of such defined terms unless a definition is provided herein for both the singular and plural form of such defined term:

(a) **"Lease"** shall mean every lease or occupancy agreement for the use or hire of all or any portion of the Premises, which shall be in effect at the date hereof or which shall hereafter be entered into by or on behalf of Grantor.

(b) **"Rents"** shall mean all rents, rent equivalents, moneys payable as damages or in lieu of rent or rent equivalents, royalties (including, without limitation, all oil and gas or other mineral royalties and bonuses), income, receivables, receipts, revenues, deposits (including, without limitation, security, utility and other deposits), accounts, cash, issues, profits, charges for services rendered, and other consideration of whatever form or nature received by or paid to or for the account of or benefit of Grantor or its agents or employees from any and all sources arising from or attributable to the Land and the Building, including, without limitation, all receivables, customer obligations, installment payment obligations and other obligations now existing or hereafter arising or created out of the sale, lease, sublease, license, concession or other grant of the right of the use and occupancy of property, and proceeds, if any, from business interruption or other loss of income insurance.

50. Successors and Assigns The terms, covenants and provisions of this Deed of Trust shall apply to and be binding upon Grantor and the successors and assigns of Grantor and shall inure to the benefit of Beneficiary, the Secured Parties and their respective successors and assigns. All grants, covenants, terms, provisions, and conditions contained herein shall run with the Land.

51. Credit Agreement In the event of any inconsistency or conflict between the terms and provisions of the Credit Agreement and this Deed of Trust, the terms and provisions of the Credit Agreement shall control.

52. Trustee The Trustee named herein shall be clothed with full power to act when action hereunder shall be required, and to execute any conveyance of the Property. In the event that the substitution of a Trustee shall become necessary for any reason, the substitution of one trustee in the place of those or any of those named herein shall be sufficient; however, more than one Trustee may be named. The term "Trustee" shall be construed to mean "Trustees" whenever the sense requires. Trustee is hereby released from all obligations imposed by statute which can be waived. The necessity of the Trustee herein named, or any successor in trust, making oath or giving bond, is expressly waived.

The Trustee, or any one acting in Trustee's stead, shall have, in Trustee's discretion, authority to employ all proper agents and attorneys in the execution of this Deed of Trust and/or in the conducting of any sale made pursuant to the terms hereof, and to pay for such services rendered out of the proceeds of the sale of the Property, should any be realized; and if no sale be made or if the proceeds of sale be insufficient to pay the same, then Grantor hereby undertakes and agrees to pay the cost of such services rendered to said Trustee. The Trustee may rely on any document believed by him in good faith to be genuine. All money received by Trustee shall, until used or applied as herein provided, be held in trust, but need not be segregated (except to the extent required by law), and Trustee shall not be liable for interest thereon.

If the Trustee shall be made a party to or shall intervene in any action or proceeding affecting the Property or the title thereto, or the interest of the Trustee or Beneficiary under this Deed of Trust, the Trustee and Beneficiary shall be reimbursed by Grantor, immediately and without demand, for all reasonable costs, charges and attorneys' fees incurred by Trustee or either of them in any such case, and the same shall be secured hereby as a further charge and lien upon the Property.

In the event of the death, refusal, or of inability for any cause, on the part of the Trustee named herein, or of any successor trustee, to act at any time when action under the foregoing powers and trust may be required, or for any other reason satisfactory to Beneficiary, Beneficiary is authorized, either in its own name or through an attorney or attorneys in fact appointed for that purpose, by written instrument duly registered, to name and appoint a successor or successors to execute this Deed of Trust, such appointment to be evidenced by writing, duly acknowledged; and when such writing shall have been registered, the substituted trustee named therein shall thereupon be vested with all the right and title, and clothed with all the power of the Trustee named herein and such like power of substitution shall continue so long as any part of the debt secured hereby remains unpaid.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Grantor has caused this Deed of Trust to be executed under seal as of the day and year first above written.

Grantor:

DOUGLAS DYNAMICS, L.L.C.

By: _____
Name:
Title:

STATE OF)

COUNTY OF)

Before me, , a Notary Public of the State and County aforesaid, personally appeared , with whom I am personally acquainted, and who, upon oath, acknowledged himself/herself to be of DOUGLAS DYNAMICS, L.L.C., a Delaware limited liability company, and that he/she as such , being authorized so to do, executed the this instrument on behalf of said DOUGLAS DYNAMICS, L.L.C..

Witness my hand and seal, at office in , , this the day of May, 2007.

NOTARY PUBLIC
My Commission Expires: _____

Exhibit A

Description of the Land

SITUATE, lying and being in the 9th Civil District of Washington County, Tennessee, and being more particularly described as follows, to-wit:

BEGINNING at an iron rod in the southwesterly right of way line of Riverview Drive (Tennessee State Route 2601), corner to City of Johnson City (Deed Book 284, page 241); thence leaving Riverview Drive and with the line of the City of Johnson City, S. 41° 19' 00" W., 848.50 feet to an iron rod, corner to General Shale Products Corp. (Deed Book 693, page 422); thence with General Shale's line, the following six courses and distances: N. 34° 22' 00" W.,153.40 feet to an iron rod; N. 39° 29' 00" E.,166.20 feet to an iron rod; N. 37° 16' W.,16.0 feet to an iron rod; N. 47° 32' 07" W., 548.35 feet to a concrete monument; N. 37° 10' 39" W., 378.19 feet to iron rod; and N. 26° 38' 07" W., 334.55 feet to a concrete monument, corner to City of Johnson City (Deed Book 703, page 113); thence with the line of the City of Johnson City, the following two courses and distances: N. 75° 20' 06" E., 291.24 feet to a concrete monument, and N. 19° 11' 00" W.,175.82 feet to a concrete monument, corner to Guy and Mae Erwin (Deed Book 469, page 25); thence with Erwin's line, N. 55° 25' 00" E., 309.91 feet to a concrete monument located in the southwesterly right of way line of Riverview Drive (Tennessee State Route 2601); thence with the southwesterly right of way line of Riverview Drive, the following five courses and distances: S. 37° 32' 10" E., 333.17 feet to an iron rod; S. 41° 20' 23" E., 223.32 feet to an iron rod; S. 36° 55' 23" E., 504.89 feet to a point; S. 41° 05' 23" E., 97.0 feet to an iron rod and S. 51° 46' 23" E., 174.58 feet to the point of BEGINNING, containing 21.599 acres, more or less, according to a map entitled "E. G. Smith Construction Products, Inc." dated September 29, 1992, prepared by Steven C. Lyons, TRLS No. 1608, 116 Free Hill Road, Gray, TN 37615.

AND BEING the same property conveyed to New DD, LLC from Douglas Dynamics, L.L.C. by Special Warranty Deed dated March 26, 2004, recorded in Roll 382, Image 2259, in the Register's Office for Washington County, Tennessee, to which reference is here made. See Certificate of Amendment amending the name from New DD, LLC to Douglas Dynamics, LLC of record in Roll 423, Image 2332, in the aforesaid Register's Office.

Schedule B

Existing Liens

1. All those exceptions to title set forth on Schedule B to Loan Policy No. 15341 issued by Lawyers Title Insurance Corporation.

2. Those liens and security interests granted in favor of the Term Collateral Agent disclosed by the Intercreditor Agreement.

EXHIBIT K

RESTRICTED PAYMENT CERTIFICATE

All calculations under this certificate shall be for the period commencing on the first day of the first full Fiscal Quarter after the Closing Date through and including the last full Fiscal Quarter (taken as one accounting period) preceding the date of determination.

I.	**Restricted Payment EBITDA**		
(a)	Consolidated Adjusted EBITDA		$
	(i)	to the extent deducted in the calculation of Consolidated Net Income for such period, all losses which are non-recurring:	$
	(ii)	to the extent deducted in the calculation of Consolidated Net Income for such period, interest attributable to Attributable Indebtedness:	$
	(iii)	to the extent deducted in the calculation of Consolidated Net Income for such period, the amount of all dividends accrued or payable (whether or not in cash) by the Company or any of its Subsidiaries in respect of preferred stock (other than (A) dividends on Capital Stock (other than Disqualified Capital Stock) of the Company or such Subsidiary payable solely in Capital Stock (other than Disqualified Capital Stock) of the Company or such Subsidiary, as applicable, and (B) by Subsidiaries of the Company to the Company or its wholly-owned Subsidiaries):	$
(b)	Sum of Items (i) thru (iii) above:		$
(c)	Aggregate amount of interest income of the Company and its Subsidiaries during such period paid in cash to the extent reducing Consolidated Adjusted EBITDA:		$
(d)	All gains which are non-recurring (including any gain from the issuance or sale of any Capital Stock) to the extent included in the calculation of Consolidated Net Income for such period, without duplication:		$
(e)	Sum of Items, without duplication, (a), (b) and (c):		$
Restricted Payment EBITDA (Item (e) minus Item (d)):			$

II. Cumulative Interest Expense

(a)	Interest expensed or capitalized, paid, accrued, or scheduled to be paid or accrued (including, in accordance with the following sentence, interest attributable to Capital Leases and Attributable Indebtedness) of the Company and its Subsidiaries, including (I) amortization of debt issuance costs, original issue discount, debt discounts or premium and other financing fees and expenses and non-cash interest payments or accruals on any Indebtedness, (II) the interest portion of all deferred payment obligations of the Company and its Subsidiaries, and (III) all commissions, discounts and other fees and charges owed by the Company and its Subsidiaries with respect to bankers' acceptances and letters of credit financings and Hedge Agreements:	$
(b)	All cash dividends paid by the Company or any of its Subsidiaries in respect of preferred stock (other than by Subsidiaries of the Company to the Company or its wholly owned Subsidiaries):	$
Cumulative Interest Expense (the aggregate amount (without duplication and determined in each case in accordance with GAAP) of Items (a) and (b)):		$

III. Restricted Payment Amount

(a)	Restricted Payment EBITDA:	$
(b)	product of 2.0 multiplied by Cumulative Interest Expense:	$
(c)	Item (a) minus Item (b):(20)	$
(d)	100% of the aggregate net cash proceeds received by the Company from a capital contribution or sale of Capital Stock to Holdings after the Closing Date:	$
(e)	An amount equal to the net amounts received in respect of Investments made under Section 6.7(1) or 6.7(m) of the Credit Agreement in any Person resulting from cash distributions on or cash repayments of any Investments, including payments of interest on Indebtedness, dividends, repayments of loans or advances, or other distributions or other transfers of assets, in each case to Company, DD Finance, Fisher or any of their respective Subsidiaries or from the net cash proceeds from the sale of any such Investment, not to exceed, in each case, the amount of Investments previously made by Company, DD Finance, Fisher or any of their respective Subsidiaries in such Person, less the cost of disposition (and excluding Investments in Subsidiaries):(21)	$
(f)	Sum of Items (c) through (e) above:	$
(g)	Aggregate amount of Restricted Payments made pursuant to Sections 6.5(a)(ii) and 6.5(c)(iv) of the Credit Agreement:	$
(h)	Amounts required to be applied to prepay Loans pursuant to Section 2.13(c) of the Credit Agreement:	$
(i)	(without duplication) amounts applied or utilized pursuant to Section 6.5(d), Section 6.5(f), Section 6.7(1), Section 6.7(m) or Section 6.16(c) of the Credit Agreement:	
(j)	Sum of Items (g) through (i):	$
Restricted Payment Amount (Item (f) minus Item (j)):(22)		$

(20) Not to be less than zero.
(21) Except in each case, in order to avoid duplication, to the extent any such payment or proceeds have been included in the calculation of Restricted Payment EBITDA.
(22) For purposes of this definition, (i) the amount of any payment or Investment made or returned hereunder, if other than in cash, shall be the fair market value thereof, as determined in the good faith reasonable judgment of the board of directors of the Company (or similar governing body) for such payments or Investments with a value in excess of $1.0 million, and otherwise by an executive officer of the Company at the time made or returned, as applicable, (ii) interest with respect to Capital Leases shall be deemed to accrue at an interest rate reasonably determined in good faith by the Company to be the rate of interest implicit in such Capital Lease in accordance with GAAP and (iii) interest expense attributable to any Indebtedness represented by the guarantee by the Company or any of its Subsidiaries of an obligation of another Person shall be deemed to be the interest expense attributable to the Indebtedness guaranteed.

EXHIBIT L

BORROWING BASE CERTIFICATE

CHASE

Reserve Against Col Avail

Obligor Number:
Loan Number:

Rpt #
Date:
Period Covered:

COLLATERAL CATEGORY Description		Cash	Accounts Receivable	Inventory per Appraisal	Inventory Per Bank	
1	Beginning Balance (Previous report - Line 8)					
2	Additions to Collateral (Gross Sales or Purchases)					
3	Other Additions (Add back any non-A/R cash in line 3)					
4	Deductions to Collateral (Cash Received)					
5	Deductions to Collateral (Discounts and Credit Memos)					
6	Deductions to Collateral (other)					
7	Other non-cash credits to A/R					
8	Total Ending Collateral Balance					**Total Collateral Balance**
9	Less Ineligible - Past Due					

10	Less Ineligible - Cross-age (_50%)		
11	Less Ineligible - Foreign		
12	Less Ineligible - Contra		
13	Less Ineligible - Other (attach schedule)		
14	Total Ineligibles -Accounts Receivable		
15	Less Ineligible — Inventory Slow-moving		
16	Less Ineligible — Inventory Offsite not covered		
17	Less Ineligible — Inventory WIP		
18	Less Ineligible — Consigned		
19	Less Ineligible — Other (attach schedule)		
20	Total Ineligibles Inventory		
21	Total Eligible Collateral	**Total Eligible Collateral**	
22	Advance Rate Percentage		
23	Net Available - Borrowing Base Value	**Total Available Collateral**	
24	Reserves (Other)		
25	Total Borrowing Base Value		
25.A	Total Availability/ CAPS		
26	Revolver Line	**Total Revolver Line**	
27	Maximum Borrowing Limit (Lesser of 25. or 26.)*	**Total Available**	
27	A Suppressed Availability	**Suppressed Availability**	
	LOAN STATUS		
28	Previous Loan Balance (Previous Report Line 31)		
29	Less: A. Net Collections (Same as line 4)		
	B. Adjustments / Other		
30	Add: A. Request for Funds		
	B. Adjustments / Other		
31	New Loan Balance	**Total New Loan Balance:**	
32	Letters of Credit/Bankers Acceptance Outstanding		
33	Availability Not Borrowed (Lines 27 less 31 & 32)		
34	Term Loan		
35	OVERALL EXPOSURE (lines 31 & 34)		

Pursuant to, and in accordance with, the terms and provisions of that certain Loan and Security Agreement ("Agreement"), between JPM Chase ("Secured Party") and Douglas Dynamics Holdings, Inc., ("Borrower"), Borrower is executing and delivering to Secured Party this Collateral Report accompanied by supporting data (collectively referred to as ("Report").
Borrower warrants and represents to Secured Party that this Report is true, correct, and based on information contained in Borrower's own financial accounting records. Borrower, by the execution of this Report, hereby ratifies, confirms and affirms all of the terms, conditions and provisions of the Agreement, and further certifies on this [ ]th day of [ ], [ ], that the Borrower is in compliance with said Agreement.

BORROWER NAME: AUTHORIZED SIGNATURE:

Douglas Dynamcis, L.L.C.

EXHIBIT M

FORM OF COLLATERAL ACCESS AGREEMENT

LANDLORD'S LIEN WAIVER, COLLATERAL ACCESS AGREEMENT AND CONSENT

THIS LANDLORD'S LIEN WAIVER, COLLATERAL ACCESS AGREEMENT AND CONSENT (the "Agreement") is made and entered into as of 2007 by and among (i) , having an office at ("Landlord"), (ii) Credit Suisse, Cayman Islands Branch, having an office at Eleven Madison Avenue, OMA-2, New York, New York 10010, as collateral agent (in such capacity, the "Term Collateral Agent") pursuant to that certain Credit and Guaranty Agreement dated as of May 21, 2007 (the "Term Credit Agreement"), and (iii) JPMorgan Chase Bank, N.A., having an office at 111 East Wisconsin Ave., Floor 15, Milwaukee, WI 53202-4815, as collateral agent (in such capacity the "ABL Collateral Agent" and together with the Term Collateral Agent, hereinafter the "Collateral Agents") pursuant to that certain Credit and Guaranty Agreement dated as of May 21, 2007 (the "ABL Credit Agreement," and together with the Term Credit Agreement, hereinafter the "Credit Agreements"), for the benefit of the Secured Parties under the Credit Agreements. Capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreements.

R E C I T A L S:

A. Landlord is the record title holder and owner of the real property located at (the "Real Property").

B. Landlord has leased all or a portion of the Real Property (the "Leased Premises") to [ ] ("Lessee") pursuant to a certain lease agreement or agreements described in Schedule A attached hereto (collectively, and as amended, amended and restated, supplemented or otherwise modified from time to time, the "Lease").

C. Lessee, a [ ] [ ], the Collateral Agents, and the other Secured Parties party thereto, among others, [are entering] [have entered] into the Credit Agreements, pursuant to which the Lenders have agreed to make certain loans to, among others, the Lessee (collectively, the "Loans"). As security for the payment and performance of Lessee's Obligations under the Credit Agreements and the other documents evidencing and securing the Loans (collectively, the "Loan Documents"), the Collateral Agents (for its benefit and the benefit of the Secured Parties) have or will acquire a security interest in and lien upon all of Lessee's personal property, inventory, accounts, goods, machinery, equipment, furniture and fixtures (together with all additions, substitutions, replacements and improvements to, and proceeds of, the foregoing, collectively, the "Personal Property").

D. Collateral Agents have requested that Landlord execute this Agreement as a condition precedent [to the making of the Loans under the Credit Agreements] [to the continued effectiveness of the Credit Agreements].

AGREEMENT:

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord hereby represents, warrants and agrees in favor of Collateral Agents, as follows:

1. Landlord hereby waives and releases unto Collateral Agents (i) any contractual landlord's lien and any other landlord's lien which it may be entitled to at law or in equity against any Personal Property, (ii)

any and all rights granted by or under any present or future laws to levy or distrain for rent or any other charges which may be due to the Landlord against the Personal Property and (iii) any and all claims, liens and demands of every kind which it has or may hereafter have against the Personal Property (including, without limitation, any right to include the Personal Property in any secured financing Landlord may become party to). Landlord acknowledges that the Personal Property is and will remain personal property and not fixtures even though it may be affixed to or placed on the Real Property.

2. Landlord certifies that (i) the Lease is in full force and effect, (ii) no notice of de- fault has been given under or in connection with the Lease which has not been cured, and Landlord has no knowledge of any occurrence of any other default under or in connection with the Lease, and (iii) Lessee is in possession of the Leased Premises.

3. Landlord agrees that Collateral Agents have the right to remove the Personal Property from the Leased Premises at any time prior to the occurrence of a default under the Lease and, after the occurrence of such a default, the Collateral Agents shall give prior notice to Landlord and shall thereafter have a reasonable period of time, not to exceed one hundred twenty (120) days, in which to repossess and/or dispose of the Collateral from the Leased Premises; provided, however, that such 120-day period will be tolled during any period in which the Collateral Agents have been stayed from taking action to remove the Collateral in any bankruptcy, insolvency or similar proceeding, and the Collateral Agents shall have an additional period of time thereafter, not to exceed 120 days in the aggregate, in which to repossess and/or dispose of the Collateral from the Leased Premises; provided further that, at Landlord's option, Collateral Agents, at their expense, shall repair any damage arising from such removal or reimburse to the Landlord the cost of repairing such damage. Landlord agrees that it will (i) cooperate with the Collateral Agents in gaining access to the Leased Premises for the purpose of repossessing said Collateral and/or assembling and storing the Collateral and (ii) permit the Collateral Agents, any such other person (including the Lessee) or their respective agents or nominees, to sell, lease, dispose of or liquidate any such Collateral on the Leased Premises in a manner reasonably designed to minimize any interference with any other of Landlord's tenants; provided, however, that Collateral Agents shall pay rent on a per diem basis for the period of time the Collateral Agents remain on the Leased Premises, in an amount equal to the monthly base rent set forth in the Lease (excluding any late fees, charges, assessments or similar sums). Landlord further agrees that, during the foregoing period Landlord will not (x) remove any of the Personal Property from the Leased Premises or (y) hinder Collateral Agents' actions in removing Personal Property from the Leased Premises or Collateral Agents' actions in otherwise enforcing its security interest in the Personal Property. Collateral Agents shall not be liable for any diminution in value of the Leased Premises caused by the absence of Personal Property actually removed or by the need to replace the Personal Property after such removal. Landlord acknowledges that Collateral Agents shall have no obligation to remove the Personal Property from the Leased Premises.

4. Landlord acknowledges and agrees that Lessee's granting of a security interest in the Personal Property in favor of the Collateral Agents (for its benefit and the benefit of the Secured Parties) shall not constitute a default under the Lease nor permit Landlord to terminate the Lease or re-enter or repossess the Leased Premises or otherwise be the basis for the exercise of any remedy by Landlord and Landlord hereby expressly consents to the granting of such security interest.

5. Notwithstanding anything to the contrary contained in this Agreement or the Lease, in the event of a default by Lessee under the Lease, Landlord agrees that (i) it shall provide to Collateral Agents, at the address set forth in the introductory paragraph hereof, a copy of any notice of default delivered to Lessee under the Lease and, if Collateral Agents so elect, an opportunity to cure such default of the lease, and (ii) it shall not exercise any of its remedies against Lessee provided in favor of Landlord under the Lease or at law or in equity until, in the case of a monetary default, the date which is 30 days after the date the Landlord delivers written notice of such monetary default to Collateral Agents, and in the case of a non-monetary default, the date which is 45 days after the date the Landlord delivers written notice of such non-monetary default to Lessee; provided, however, if such non-monetary default by its nature cannot reasonably be cured by Collateral Agents within such 45-day period, the Collateral Agents shall have such additional period of time as may be reasonably necessary to cure such non-monetary default, so long as Lender commences such curative measures within such 45-day period and thereafter proceeds diligently to complete such curative measures. If Collateral Agents or Lessee or any other Person cures any such default, then Landlord shall rescind the notice of default.

6. The terms and provisions of this Agreement shall inure to the benefit of and be binding upon the successors and assigns of Landlord (including, without limitation, any successor owner of the Real Property) and Collateral Agents. Landlord will disclose the terms and conditions of this Agreement to any purchaser or successor to Landlord's interest in the Leased Premises.

7. All notices to any party hereto under this Agreement shall be in writing and sent to such party at its respective address set forth above (or at such other address as shall be designated by such party in a written notice to the other party complying as to delivery with the terms of this Section 9) by certified mail, postage prepaid, return receipt requested or by overnight delivery service.

8. The provisions of this Agreement shall continue in effect until Landlord shall have received Collateral Agents' written certification that the Loans have been paid in full and all of Borrowers' other Obligations under the Credit Agreements and the other Loan Documents have been satisfied.

9. THE INTERPRETATION, VALIDITY AND ENFORCEMENT OF THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED UNDER THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO THE CONFLICTS OF LAWS PRINCIPLES THEREOF.

IN WITNESS WHEREOF, Landlord and Collateral Agents have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the date first above written.

,
as Landlord

By: _____
Name:
Title:

CREDIT SUISSE,
as Term Collateral Agent

By: _____
Name:
Title:

JPMorgan Chase Bank, N.A.,
as ABL Collateral Agent

By: _____
Name:

Schedule A

Description of Leases

Lessor	Lessee	Dated	Modification	Location/Property Address

EXHIBIT N

INTERCREDITOR AGREEMENT

EXECUTION VERSION

INTERCREDITOR AGREEMENT

by and among

DOUGLAS DYNAMICS, L.L.C.
DOUGLAS DYNAMICS FINANCE COMPANY
FISHER, LLC
DOUGLAS DYNAMICS HOLDINGS, INC.

The Grantors from Time to Time Parties Hereto,

CREDIT SUISSE, CAYMAN ISLANDS BRANCH,

as the Administrative Agent under the ABL Loan Documents,
as the Administrative Agent and the Collateral Agent under the Term Loan Documents,

and

JPMORGAN CHASE BANK, N.A.,
as the Collateral Agent under the ABL Loan Documents

Dated as of May 21, 2007

TABLE OF CONTENTS

This INTERCREDITOR AGREEMENT, dated as of May 21, 2007, and entered into by and among Douglas Dynamics, L.L.C., a Delaware limited liability company ("Douglas"), Douglas Dynamics Finance Company, a Delaware corporation ("DD Finance") and Fisher, LLC, a Delaware limited liability company ("Fisher", and collectively with Douglas and DD Finance, the "ABL Borrower"), Douglas Dynamics Holdings, Inc., a Delaware corporation ("Holdings"), each other Grantor (as hereinafter defined) from time to time party hereto, CREDIT SUISSE, acting through a Cayman Island Branch ("Credit Suisse"), in its capacity as administrative agent under the ABL Loan Documents (as defined below) (together with its successors and assigns from time to time in such capacity (the "ABL Administrative Agent"), JPMorgan Chase Bank, N.A. ("JPMCB") in its capacity as collateral agent under the ABL Loan Documents (together with its successors and assigns from time to time in such capacity, the "ABL Collateral Agent"), Credit Suisse, in its capacities as administrative agent (together with its successors and assigns from time to time in such capacity the "Term Administrative Agent") and collateral agent under the Term Loan Documents (as defined below) (together with its successors and assigns from time to time in such capacity, the "Term Collateral Agent"). Capitalized terms used herein but not otherwise defined herein have the meanings set forth in the ABL Credit Agreement or the Term Credit Agreement, as context requires.

RECITALS

WHEREAS, the ABL Borrower, Holdings, the lenders party thereto, the ABL Administrative Agent and the ABL Collateral Agent have entered into that certain Credit Agreement, dated as of the date hereof (as amended, restated, supplemented, modified and/or Refinanced from time to time in accordance with the terms hereof and thereof, the "ABL Credit Agreement");

WHEREAS, Douglas (the "Term Borrower"), Holdings, the Subsidiary Guarantors, the lenders party thereto, the Term Collateral Agent and the Term Administrative Agent have entered into that certain Credit Agreement, dated as of the date hereof (as amended, restated, supplemented, modified and/or Refinanced from time to time in accordance with the terms hereof and thereof, the "Term Credit Agreement");

WHEREAS, the obligations of the ABL Borrower and the other Grantors under the ABL Loan Documents and all ABL Hedging Obligations will be secured by substantially all the property and assets of the ABL Borrower and the other Grantors, respectively, pursuant to the terms of the ABL Security Documents;

WHEREAS, the obligations of the Term Borrower and the other Grantors under the Term Loan Documents will be secured by substantially all the property and assets of the Term Borrower and the other Grantors, respectively, pursuant to the terms of the Term Security Documents;

WHEREAS, the ABL Loan Documents and the Term Loan Documents provide, among other things, that the parties thereto shall set forth in this Agreement their respective rights and remedies with respect to the Collateral;

WHEREAS, in order to induce the ABL Collateral Agent and the ABL Creditors to consent to the Grantors incurring the Term Obligations and to induce the ABL Creditors to extend credit and other financial accommodations and lend monies to or for the benefit of the ABL Borrower or any other Grantor, the Term Collateral Agent on behalf of the Term Creditors (and each Term Creditor by its acceptance of the benefits of the Term Security Documents) has agreed to the lien subordination, intercreditor and other provisions set forth in this Agreement;

WHEREAS, in order to induce the Term Collateral Agent and the Term Creditors to consent to the Grantors incurring the ABL Obligations and to induce the Term Creditors to extend credit and other financial accommodations and lend monies to or for the benefit of Douglas or any other Grantor, the ABL Collateral Agent on behalf of the ABL Creditors (and each ABL Creditor by its acceptance of the benefits of the ABL Security Documents) has agreed to the lien subordination, intercreditor and other provisions set forth in this Agreement;

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

ARTICLE I

DEFINITIONS

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

"ABL Administrative Agent" has the meaning set forth in the preamble hereto.

"ABL Banking Services Agreement" shall mean any Banking Services Agreement (as defined in the ABL Credit Agreement) entered into by a Grantor and any ABL Banking Services Provider (or any Person who was an ABL Banking Services Provider as of the date such Banking Services Agreement was entered into).

"ABL Banking Services Provider" shall mean, with respect to any Banking Services Agreement, any counterparty thereto that, at the time such Banking Services Agreement was entered into or as of the date of this Agreement, was an ABL Administrative Agent, ABL Collateral Agent or ABL Lender or an Affiliate of an ABL Administrative Agent, ABL Collateral Agent or ABL Lender.

"ABL Banking Services Obligations" of the Grantors means any and all obligations of the Grantors, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor and the payment of interest and other amounts that would

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accrue and become due but for the commencement of any Insolvency or Liquidation Proceeding at the rate provided for in the respective documentation, whether or not a claim for post-petition interest is allowed in any such Insolvency or Liquidation Proceeding) in connection with Banking Services Agreement (as defined in the ABL Credit Agreement).

"ABL Borrower" shall mean collectively, Douglas, DD Finance and Fisher, as borrowers under the ABL Credit Agreement.

"ABL Collateral Agent" has the meaning provided in the Preamble hereto.

"ABL Credit Agreement" has the meaning set forth in the recitals hereto.

"ABL Creditor Post-Petition Financing" has the meaning set forth in Section 6.1(a)(i) hereto.

"ABL Creditors" shall mean, at any relevant time, the holders of ABL Obligations at such time, including, without limitation, the ABL Lenders, the ABL Banking Services Providers, the ABL Hedge Providers, the ABL Collateral Agent, the ABL Administrative Agent and the other agents under the ABL Credit Agreement.

"ABL Documents" shall mean and include the ABL Loan Documents, the ABL Banking Services Agreements, and the ABL Hedge Agreements.

"ABL Guaranty" means the guaranty pursuant to Section VII of the ABL Credit Agreement.

"ABL Hedge Agreement" shall mean any Hedge Agreement (as defined in the ABL Credit Agreement) entered into by a Grantor and any ABL Hedge Provider (or any Person who was an ABL Hedge Provider as of the date such Hedge Agreement was entered into).

"ABL Hedge Provider" shall mean, with respect to any Hedge Agreement, any counterparty thereto that, at the time such Hedge Agreement was entered into or as of the date of this Agreement, was an ABL Administrative Agent, ABL Collateral Agent or ABL Lender or an Affiliate of an ABL Administrative Agent, ABL Collateral Agent or ABL Lender.

"ABL Hedging Obligations" shall mean (i) the full and prompt payment when due (whether at the stated maturity, by acceleration or otherwise) of all obligations (including obligations which, but for the automatic stay under Section 362(a) of the Bankruptcy Code, would become due) and liabilities (including, without limitation, indemnities, fees and interest thereon and including the payment of interest and other amounts that would accrue and become due but for the commencement of any Insolvency or Liquidation Proceeding at the rate provided for in the respective documentation, whether or not a claim for post-petition interest is allowed in any such Insolvency or Liquidation Proceeding) of each Grantor owing to the ABL Hedge Providers, now existing or hereafter incurred under, arising out of or in connection with each ABL Hedge Agreement (including all such obligations and indebtedness under any guarantee to which each Grantor is a party) and (ii) the due performance and compliance by each Grantor with the terms, conditions and agreements of each ABL Hedge Agreement.

"ABL Lenders" shall mean the "Lenders" under, and as defined in, the ABL Credit Agreement;provided that the term "ABL Lender" shall in any event include each letter of credit issuer and each swingline lender under the ABL Credit Agreement.

"ABL Loan Commitments" shall mean the loan commitments under the ABL Credit Agreement.

"ABL Loan Documents" shall mean the ABL Credit Agreement and the Credit Documents (as defined in the ABL Credit Agreement) and each of the other agreements, documents and instruments executed or delivered at any time in connection therewith (including any intercreditor or joinder agreement among holders of ABL Obligations but excluding ABL Hedge Agreements), to the extent such are effective at the relevant time, as each may be amended, supplemented, restated, modified and/or replaced from time to time in accordance with the terms hereof and thereof.

"ABL Mortgages" shall mean a collective reference to each mortgage, deed of trust and any other document or instrument under which any Lien on real property owned or leased by any Grantor is granted to secure any ABL Obligations or under which rights or remedies with respect to any such Liens are governed.

"ABL Obligations" shall mean (i) all Obligations outstanding under the ABL Credit Agreement and the other ABL Loan Documents, (ii) all ABL Hedging Obligations and (iii) all ABL Banking Services Obligations. "ABL Obligations" shall in any event include: (a) all interest accrued or accruing (or which would, absent commencement of an Insolvency or Liquidation Proceeding (and the effect of provisions such as Section 502(b)(2) of the Bankruptcy Code), accrue) after commencement of an Insolvency or Liquidation Proceeding in accordance with the rate specified in the relevant ABL Document, whether or not the claim for such interest is allowed as a claim in such Insolvency or Liquidation Proceeding, (b) any and all fees and expenses (including attorneys' and/or financial consultants' fees and expenses) incurred by the ABL Collateral Agent, the ABL Administrative Agent and the ABL Creditors after the commencement of an Insolvency or Liquidation Proceeding, whether or not the claim for fees and expenses is allowed under Section 506(b) of the Bankruptcy Code or any other provision of the Bankruptcy Code or Bankruptcy Law as a claim in such Insolvency or Liquidation Proceeding and (c) all obligations and liabilities of each Grantor under each ABL Document to which it is a party which, but for the automatic stay under Section 362(a) of the Bankruptcy Code, would become due. The ABL Obligations shall not include (x) principal of Loans or stated amounts of Letters of Credit in excess of the Maximum ABL Principal Amount as in effect at the time incurred or (y) any amount in clauses (a) through (c) of the preceding sentence incurred in connection with the enforcement of the excess amounts referred to in preceding clause (x).

"ABL Priority Collateral" means all Collateral consisting of the following:

(a) all Accounts;

(b) all Inventory;

(c) all Deposit Accounts and Securities Accounts and all cash, checks and other property held therein or credited thereto (other than identifiable cash proceeds of Term Priority Collateral held therein);

(d) to the extent evidencing, governing, securing or otherwise related to the items referred to in the precedingclauses (a) through (c), all General Intangibles, Chattel Paper, Instruments, and Documents, provided that to the extent any of the foregoing also relates to Term Priority Collateral, only that portion related to the items referred to in the preceding clauses (a) through (c) shall be included in the ABL Priority Collateral;

(e) to the extent evidencing, governing, securing or otherwise related to the items referred to in the precedingclauses (a) through (d), all Supporting Obligations, provided that to the extent any of the foregoing also relates to Term Priority Collateral, only that portion related to the items referred to in the precedingclauses (a) through (d) shall be included in the ABL Priority Collateral;

(f) all books and records relating to the foregoing; and

(g) all Proceeds and products of each of the foregoing and all accessions to, substitutions and replacements for, and rents, profits and products of, each of the foregoing, any and all Proceeds of any insurance, indemnity, warranty or guaranty payable to such Grantor from time to time with respect to any of the foregoing.

All capitalized terms used in this definition and not defined elsewhere in this Agreement have the meanings assigned to them in the UCC.

"ABL Recovery" has the meaning set forth inSection 6.5(a) hereto.

"ABL Required Lenders" shall mean the "Requisite Lenders" under, and as defined in, the ABL Credit Agreement.

"ABL Secured Parties" shall mean, at any time, the ABL Collateral Agent, the ABL Administrative Agent, each ABL Creditor, the beneficiaries of each indemnification obligation undertaken by any Grantor under any ABL Document and each other holder of, or obligee in respect of, any ABL Obligations outstanding at such time.

"ABL Security Documents" shall mean the Collateral Documents (as defined in the ABL Credit Agreement), and any other agreement, document, mortgage or instrument pursuant to which a Lien is granted securing any ABL Obligations or under which rights or remedies with respect to such Liens are governed, as the same may be amended, supplemented, restated, modified and/or replaced from time to time in accordance with the terms hereof and thereof.

"ABL Security Agreement" shall mean the Pledge and Security Agreement, dated as of the date hereof, among the Borrower, the other Grantors from time to time party thereto and the ABL Collateral Agent, as the same may be amended, supplemented, restated, modified and/or replaced from time to time in accordance with the terms hereof and thereof.

"Affiliate" shall mean as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" of a Person means the power, directly or indirectly, either to (a) vote 50% or more of the securities having ordinary voting power for the election of directors (or persons performing similar functions) of such Person or (b) direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities, or contract.

"Agreement" shall mean this Agreement, as amended, supplemented, restated, modified and/or replaced from time to time in accordance with the terms hereof and thereof.

"Bankruptcy Code" shall mean Title 11 of the United States Code entitled "Bankruptcy," as now and hereafter in effect, or any successor statute.

"Bankruptcy Court" has the meaning set forth in Section 6.1(a)(ii) hereto.

"Bankruptcy Law" shall mean, collectively, the Bankruptcy Code as now and hereafter in effect, or any successor statute, and any similar federal provincial, state or foreign law for the relief of debtors.

"Borrower" shall mean (a) with respect to each of the ABL Documents, the ABL Borrower, and (b) with respect to the Term Loan Documents, the Term Borrower.

"Business Day" shall mean a day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to close.

"Collateral" shall mean all assets and properties upon which a Lien is granted or purported to be granted to the ABL Collateral Agent or Term Collateral Agent under any of the ABL Security Documents or Term Security Documents.

"Collateral Agent" means, as the context requires, collectively, the ABL Collateral Agent and/or the Term Collateral Agent.

"Comparable ABL Security Document" shall mean, in relation to any ABL Priority Collateral subject to any Lien created under any Term Security Document, that ABL Security Document which creates a Lien on the same ABL Priority Collateral, granted by the same Grantor.

"Comparable Term Security Document" shall mean, in relation to any ABL Priority Collateral subject to any Lien created under any ABL Security Document, that Term Security Document which creates a Lien on the same ABL Priority Collateral, granted by the same Grantor.

"Creditors" shall mean, collectively, the ABL Creditors and the Term Creditors.

"Credit Suisse" has the meaning set forth in the preamble hereto.

"DD Finance" has the meaning set forth in the preamble hereto.

"Discharge of ABL Obligations" shall mean, except to the extent otherwise provided in Section 5.7 (and subject to Section 6.5), (a) payment in full in cash of the principal of and interest (including interest accruing on or after the commencement of any Insolvency or Liquidation Proceeding, whether or not such interest would be allowed in such Insolvency or Liquidation Proceeding) and premium, if any, on all Indebtedness outstanding under the ABL Documents, (b) payment in full of all other ABL Obligations that are due and payable or otherwise accrued and owing at or prior to the time such principal and interest and premium, if any, are paid, (c) expiration, cancellation (without any prior demand for payment thereunder having been made or, if made, with such demand having been fully reimbursed in cash), cash collateralization or backstopping with a letter of credit reasonably acceptable to the Issuing Lender (in this case, as such term is defined in the ABL Credit Agreement) of all letters of credit issued under the ABL Credit Agreement and cash collateralization of any Grantor's net obligation under ABL Hedge Agreements (to the extent required thereby with notification by the relevant ABL Hedge Providers to the ABL Collateral Agent) and (d) termination of all other commitments of the ABL Creditors under the ABL Loan Documents.

"Discharge of Term Obligations" shall mean, except to the extent otherwise provided in Section 5.7 (and subject to Section 6.5), (a) payment in full in cash of the principal of and interest (including interest accruing on or after the commencement of any Insolvency or Liquidation Proceeding, whether or not such interest would be allowed in such Insolvency or Liquidation Proceeding) and premium, if any, on all Indebtedness outstanding under the Term Loan Documents, (b) payment in full of all other Term Obligations that are due and payable or otherwise accrued and owing at or prior to the time such principal and interest and premium, if any, are paid and (c) termination of all other commitments of the Term Creditors under the Term Loan Documents.

"Documents" shall mean, as the context requires, collectively, the ABL Documents and the Term Loan Documents.

"Douglas" has the meaning set forth in the preamble hereto.

"Equity Interests" of any Person shall mean any and all shares, interests, rights to purchase, warrants, options, participation or other equivalents of or interest in (however designated, whether voting or nonvoting) equity of such Person, including any common stock, preferred stock, any limited or general partnership interest and any limited liability company membership interest and any and all warrants, rights or options to purchase any of the foregoing.

"Exposure Amount" shall mean, with respect to any ABL Creditor Post-Petition Financing or Term Creditor Post-Petition Financing, the sum of (without duplication) (i) the aggregate principal amount of the commitments thereunder, (ii) any principal amount (for this purpose, including the maximum undrawn amounts of any then outstanding letters of credit and the aggregate amount of unpaid outstanding reimbursement obligations related thereto, and excluding all ABL Hedging Obligations and ABL Banking Services Obligations) outstanding pursuant to the ABL Credit Agreement as of the commencement of the relevant Insolvency or Liquidation Proceeding, and (iii) the aggregate principal amount of Term Obligations as of the commencement of such Insolvency or Liquidation Proceeding.

"Fisher" has the meaning set forth in the preamble hereto.

"Governmental Authority" shall mean any nation or government, any state, provincial or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank), any securities exchange and any self-regulatory organization (including the National Association of Insurance Commissioners).

"Grantors" shall mean Holdings, the ABL Borrower, the Term Borrower and each of the Subsidiary Guarantors that have executed and delivered, or may from time to time hereafter execute and deliver, an ABL Security Document or a Term Security Document.

"Hedge Agreement" shall mean any agreement with respect to any swap, cap, collar, hedge, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower or any of its Subsidiaries shall be a "Hedge Agreement".

"Holdings" has the meaning set forth in the preamble hereto.

"Indebtedness" shall mean and includes all Obligations that constitute "Indebtedness" within the meaning of the ABL Credit Agreement or the Term Credit Agreement.

"Insolvency or Liquidation Proceeding" shall mean (a) any voluntary or involuntary case or proceeding under the Bankruptcy Code or any other Bankruptcy Law or any other Bankruptcy Law with respect to any Grantor, (b) any other voluntary or involuntary insolvency, reorganization, arrangement or bankruptcy case or proceeding, or any receivership, liquidation, reorganization, arrangement or other similar case or proceeding with respect to any Grantor or with respect to a material portion of its respective assets, (c) any liquidation, dissolution, reorganization or winding up of any Grantor whether voluntary or involuntary and whether or not involving insolvency or bankruptcy or (d) any assignment for the benefit of creditors or any other marshalling of assets and liabilities of any Grantor.

"Letters of Credit" shall mean "Letters of Credit" under, and as defined in, the ABL Credit Agreement.

"Lien" shall mean any mortgage, pledge, security interest, encumbrance, lien or charge of any kind (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement, any financing or similar statement or notice filed under the UCC or any similar recording or notice statute, and any lease having substantially the same effect as the foregoing).

"Loans" shall mean "Loans" under, and as defined in, the ABL Credit Agreement.

"Maximum ABL Principal Amount" shall mean, at any time, (i) $90,000,000, less (ii) the aggregate permanent reductions in the ABL Loan Commitments other than any such reduction, repayment or prepayment made in connection with a Refinancing, less (iii) the aggregate principal amount of Additional Term Loans (as defined in the Term Credit Agreement) made under the Term Credit Agreement, plus (iv) for the avoidance of doubt and without duplication, the aggregate principal amount of any interest that has been capitalized under the ABL Credit Agreement.

"Maximum Exposure Amount" shall mean, with respect to any ABL Creditor Post-Petition Financing or Term Creditor Post-Petition Financing, the sum of (i) the portion of the Maximum ABL Principal Amount outstanding as of the commencement of the relevant Insolvency or Liquidation Proceeding, (ii) the portion of the Maximum Term Principal Amount as of the commencement of such Insolvency or Liquidation Proceeding and (iii) $40,000,000.

"Maximum Term Principal Amount" shall mean, at any time, (i) $115,000,000, less (ii) the aggregate principal amount of permanent repayments or prepayments of indebtedness under the Term Credit Agreement, other than any such reduction, repayment or prepayment made in connection with a Refinancing, less (iii) the aggregate principal amount of Additional Revolving Loan Commitments (as defined in the ABL Credit Agreement) made under the Term Credit Agreement, plus (iv) for the avoidance of doubt and without duplication, the aggregate principal amount of any interest that has been capitalized under the Term Credit Agreement.

"New ABL Agent" has the meaning set forth in Section 5.7(a) hereto.

"New Term Agent" has the meaning set forth in Section 5.7(b) hereto.

"Obligations" shall mean any and all obligations (including guaranty obligations) with respect to the payment and performance of (a) any principal of or interest or premium on any indebtedness, including, without limitation, any reimbursement obligation in respect of any letter of credit, or any other liability, including the payment of interest and other amounts that would accrue and become due but for the commencement of any Insolvency or Liquidation Proceeding of any Grantor at the rate provided for in the respective documentation, whether or not a claim for post-petition interest is allowed in any such Insolvency or Liquidation Proceeding, (b) any fees, indemnification obligations, expense reimbursement obligations or other liabilities payable under the documentation governing any indebtedness (including, without limitation, the retaking, holding, selling or otherwise disposing of or realizing on the Collateral), (c) any obligation to post cash collateral in respect of letters of credit or any other obligations, and (d) all performance obligations under the documentation governing any indebtedness.

"Person" shall mean an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

"Refinancing" shall mean,

(a) in respect of any Indebtedness and/or, if any, commitments to extend credit under the ABL Credit Agreement, any refinancing, extension, renewal, defeasance,

restructuring, replacement or refunding of loans and/or, if any, commitments under the ABL Credit Agreement, to the extent the aggregate principal amount of loans and

commitments made in connection with such refinancing, extension, renewal, defeasance, restructuring, replacement or refunding does not exceed the Maximum ABL Principal Amount; provided that any such refinancing, extension, renewal, defeasance, restructuring, replacement or refunding (and the Indebtedness resulting therefrom) does not (i) contravene the provisions of this Agreement (and the holders of such refinancing Indebtedness, or an agent on their behalf, have agreed to be bound by the terms hereof), (ii) result in the increase in the "Applicable Margin" or similar component of the interest or the yield on the loans thereunder by more than 1.5% per annum (exclusive, for the avoidance of doubt, of any increases (A) resulting from application of the pricing grid set forth in the ABL Credit Agreement as in effect on the date hereof or (B) resulting from the accrual of interest at the default rate), (iii) provide for dates for payment of principal, interest, premium (if any) or fees which are earlier than such dates under the ABL Credit Agreement, or (iv) convert the ABL Credit Agreement to, or refinance the ABL Credit Agreement with, a term loan credit facility or a revolving credit facility the availability of which is not subject to a borrowing base comprised of accounts receivable and inventory.

(b) in respect of any Indebtedness and/or, if any, commitments to extend credit under the Term Credit Agreement, any refinancing, extension, renewal, defeasance, restructuring, replacement or refunding of loans and/or, if any, commitments under the Term Credit Agreement, to the extent the aggregate principal amount of loans and commitments made in connection with such refinancing, extension, renewal, defeasance, restructuring, replacement or refunding does not exceed the Maximum Term Principal Amount; provided that any such refinancing, extension, renewal, defeasance, restructuring, replacement or refunding (and the Indebtedness resulting therefrom) does not (i) contravene the provisions of this Agreement (and the holders of such refinancing Indebtedness, or an agent on their behalf, have agreed to be bound by the terms hereof), (ii) result in an increase in the "Applicable Margin" or similar component of the interest yield of such refinancing Indebtedness which is more than 3.0% per annum above the "Applicable Margin" or similar component under the Term Credit Agreement as of the date hereof (excluding increases resulting from the accrual of interest at the default rate); and (iii) change (to earlier dates) any dates upon which payments of principal or interest are due thereon.

With respect to clause (a), the Term Administrative Agent shall be provided with written notice by the Borrower that the Obligations arising from the refinancing, extension, renewal, defeasance, restructuring, replacement or refunding referenced in clause (a) are intended to constitute ABL Obligations hereunder (it being understood that the failure of any such notice to be given shall not impair or affect the Term Administrative Agent's or the Term Creditor's obligations to the ABL Administrative Agent and the ABL Creditors, the ABL Administrative Agent's rights hereunder, the enforceability of this Agreement or any liens created or granted hereby or under any ABL Loan Document). With respect to clause (b), the ABL Administrative Agent shall be provided with written notice that the Obligations arising from the refinancing, extension, renewal, defeasance, restructuring, replacement or refunding referenced in clause (b) are intended to constitute Term Obligations hereunder (it being understood that the failure of any such notice to be given shall not impair or affect the ABL Administrative Agent's or any ABL Creditor's obligations to the Term Administrative Agent and the Term Creditors, the Term

Administrative Agent's rights hereunder, the enforceability of this Agreement or any liens created or granted hereby or under any Term Document).

"Required ABL Creditors" shall mean at all times prior to the occurrence of the Discharge of ABL Obligations, the ABL Required Lenders (or, to the extent required by the ABL Credit Agreement, each of the ABL Lenders).

"Required Term Creditors" shall mean at all times prior to the occurrence of the Discharge of Term Obligations, the Term Required Lenders (or, to the extent required by the Term Credit Agreement, each of the Term Lenders).

"Security Documents" shall mean, collectively, the ABL Security Documents and the Term Security Documents.

"Subsidiary Guarantors" shall mean each Subsidiary of Holdings which enters into a guaranty of any ABL Obligations or Term Obligations.

"Subsidiary" shall mean, as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other Equity Interests having ordinary voting power (other than stock or such other Equity Interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise qualified, all references to a "Subsidiary" or to "Subsidiaries" in this Agreement shall refer to a Subsidiary or Subsidiaries of the Borrower.

"Term Administrative Agent" has the meaning set forth in the preamble hereto.

"Term Borrower" has the meaning set forth in the preamble hereto.

"Term Collateral Agent" has the meaning provided in the first paragraph of this Agreement.

"Term Credit Agreement" has the meaning set forth in the recitals hereto.

"Term Creditor Post-Petition Financing" has the meaning set forth in Section 6.1(b)(i) hereto.

"Term Creditors" shall mean, at any relevant time, the holders of Term Obligations at such time, including without limitation the Term Lenders, the Term Collateral Agent, the Term Administrative Agent and any other agents under the Term Credit Agreement.

"Term Lenders" shall mean the "Lenders" under and as defined in the Term Credit Agreement.

"Term Loan Documents" shall mean the Term Credit Agreement and the other Credit Documents (as defined in the Term Credit Agreement) and each of the other agreements, documents and instruments executed or delivered at any time in connection therewith (including any intercreditor or joinder agreement among holders of Term Obligations), to the extent such are effective at the relevant time, as the same may be amended, supplemented, restated, modified and/or replaced from time to time in accordance with the terms hereof and thereof.

"Term Obligations" shall mean all Obligations outstanding under the Term Credit Agreement and the other Term Loan Documents. "Term Obligations" shall in any event include: (a) all interest accrued or accruing (or which would, absent commencement of an Insolvency or Liquidation Proceeding (and the effect of provisions such as Section 502(b)(2) of the Bankruptcy Code), accrue) after commencement of an Insolvency or Liquidation Proceeding in accordance with the rate specified in the relevant Term Loan Document whether or not the claim for such interest is allowed as a claim in such Insolvency or Liquidation Proceeding and (b) any and all fees and expenses (including attorneys' and/or financial consultants' fees and expenses) incurred by the Term Collateral Agent, the Term Administrative Agent and the Term Creditors after the commencement of an Insolvency or Liquidation Proceeding, whether or not the claim for fees and expenses is allowed under Section 506(b) of the Bankruptcy Code or any other provision of the Bankruptcy Code or Bankruptcy Law as a claim in such Insolvency or Liquidation Proceeding. The Term Obligations shall not include (x) principal in excess of the Maximum Term Principal Amount or (y) any amount in clauses (a) through (c) of the preceding sentence incurred in connection with the enforcement of the excess amounts referred to in preceding clause (x).

"Term Priority Collateral" shall mean any and all Collateral, other than the ABL Priority Collateral.

"Term Recovery" has the meaning set forth in Section 6.5(b) hereto.

"Term Required Lenders" shall mean the "Requisite Lenders" under, and as defined in, the Term Credit Agreement.

"Term Secured Parties" shall mean, at any time, the Term Collateral Agent, the Term Administrative Agent, each Term Creditor, the beneficiaries of each indemnification obligation undertaken by any Grantor under any Term Document and each other holder of, or obligee in respect of, any Term Obligations outstanding at such time.

"Term Security Documents" shall mean the Collateral Documents (as defined in the Term Credit Agreement), and any other agreement, document, mortgage or instrument pursuant to which a Lien is granted securing any Term Obligations or under which rights or remedies with respect to such Liens are governed, as the same may be amended, supplemented, restated, modified and/or replaced from time to time in accordance with the terms hereof and thereof.

"Term Security Agreement" shall mean the Pledge and Security Agreement, dated as of the date hereof, among the Borrower, the other Grantors from time to time party thereto and the Term Collateral Agent, as the same may be amended, supplemented, restated, modified

and/or replaced from time to time or otherwise modified from time to time in accordance with the terms hereof and thereof.

"Term Guaranty" shall mean the guaranty pursuant to Section VII of the Term Credit Agreement.

"Uniform Commercial Code" or "UCC" means the Uniform Commercial Code as from time to time in effect in the State of New York.

SECTION 1.2 Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall". Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified, (b) any reference herein to any Person shall be construed to include such Person's successors and assigns, (c) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Exhibits or Sections shall be construed to refer to Exhibits or Sections of this Agreement, (e) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights, (f) terms defined in the UCC but not otherwise defined herein shall have the same meanings herein as are assigned thereto in the UCC, (g) reference to any law means such law as amended, modified, codified, replaced or re-enacted, in whole or in part, and in effect on the date hereof, including rules, regulations, enforcement procedures and any interpretations promulgated thereunder and (h) underscored references to Sections or clauses shall refer to those portions of this Agreement, and any underscored references to a clause shall, unless otherwise identified, refer to the appropriate clause within the same Section in which such reference occurs.

ARTICLE II

PRIORITY OF LIENS; ETC.

SECTION 2.1 Subordination of Liens; Etc. (a) ABL Priority Collateral. Notwithstanding the date, manner or order of grant, attachment or perfection of (x) any Liens securing the ABL Obligations granted on the ABL Priority Collateral or (y) any Liens securing the Term Obligations granted on the ABL Priority Collateral and notwithstanding any provision of the UCC, any other applicable law, the Term Loan Documents or any other circumstance whatsoever (including any invalidity or non-perfection of any Lien purporting to secure the ABL Obligations, and/or the Term Obligations), the Term Collateral Agent, on behalf of itself and the other Term Creditors, and each other Term Creditor (by its acceptance of the benefits of the Term Loan Documents) hereby agree that:

(i) any Lien on the ABL Priority Collateral securing any ABL Obligations now or hereafter held by or on behalf of the ABL Collateral Agent or any ABL Creditors or any agent or trustee therefor, regardless of how acquired, whether by grant, possession, statute, operation of law, subrogation or otherwise, shall be senior in all respects and prior to any Lien on the ABL Priority Collateral securing any of the Term Obligations;

(ii) all Liens on the ABL Priority Collateral securing any ABL Obligations shall be and remain senior in all respects and prior to all Liens on the ABL Priority Collateral securing any Term Obligations, whether or not such Liens securing any ABL Obligations are subordinated to any Lien securing any other obligation of the Borrower, any other Grantor or any other Person;

(iii) it is their intent that (x) the ABL Obligations (and the security therefor) constitute a separate and distinct class (and separate and distinct claims) from the Term Obligations (and the security therefore) and (y) the Term Obligations (and the security therefor) constitute a separate and distinct class (and separate and distinct claims) from the ABL Obligations (and the security therefor).

(b) Term Priority Collateral. Notwithstanding the date, manner or order of grant, attachment or perfection of (x) any Liens securing the Term Obligations granted on the Term Priority Collateral or (y) any Liens securing the ABL Obligations granted on the Term Priority Collateral and notwithstanding any provision of the UCC, any other applicable law, the ABL Loan Documents or any other circumstance whatsoever (including any invalidity or non-perfection of any Lien purporting to secure the Term Obligations and/or the ABL Obligations), the ABL Collateral Agent, on behalf of itself and the other ABL Creditors, and each other ABL Creditor (by its acceptance of the benefits of the ABL Loan Documents) hereby agree that:

(i) any Lien on the Term Priority Collateral securing any Term Obligations now or hereafter held by or on behalf of the Term Collateral Agent or any Term Creditors or any agent or trustee therefor, regardless of how acquired, whether by grant, possession, statute, operation of law, subrogation or otherwise, shall be senior in all respects and prior to any Lien on the Term Priority Collateral securing any of the ABL Obligations;

(ii) all Liens on the Term Priority Collateral securing any Term Obligations shall be and remain senior in all respects and prior to all Liens on the Term Priority Collateral securing any ABL Obligations for all purposes, whether or not such Liens securing any Term Obligations are subordinated to any Lien securing any other obligation of the Borrower, any other Grantor or any other Person;

(iii) it is their intent that (x) the Term Obligations (and the security therefor) constitute a separate and distinct class (and separate and distinct claims) from the ABL Obligations (and the security therefor) and (y) the ABL Obligations (and the security therefor) constitute a separate and distinct class (and separate and distinct claims) from the Term Obligations (and the security therefor).

Notwithstanding anything to the contrary contained above or elsewhere in this Agreement, for all purposes of this Agreement (x) the ABL Obligations shall be deemed secured by Liens on all ABL Priority Collateral regardless of whether a Lien or security interest has in fact been granted (or purported to be granted) with respect thereto and (y) the Term Obligations shall be deemed secured by Liens on all Term Priority Collateral regardless of whether a Lien or security interest has in fact been granted (or purported to be granted) with respect thereto.

SECTION 2.2 Prohibition on Contesting Liens. The Term Collateral Agent, for itself and on behalf of each Term Creditor, and the ABL Collateral Agent, for itself and on behalf of each ABL Creditor, agrees that it shall not (and hereby waives any right to) contest or support any other Person in contesting, in any proceeding (including, without limitation, any Insolvency or Liquidation Proceeding), (i) the validity or enforceability of any Security Document or any Obligation thereunder, (ii) the validity, perfection, priority or enforceability of the Liens, mortgages, assignments and security interests granted (or purported to be granted) pursuant to the Security Documents with respect to the ABL Obligations or the Term Obligations, or (iii) the relative rights and duties of the holders of the ABL Obligations and the Term Obligations granted and/or established in this Agreement or any other Security Document (to the extent not inconsistent with the terms of this Agreement) with respect to such Liens, mortgages, assignments, and security interests; provided that nothing in this Agreement shall be construed to prevent or impair the rights of any Collateral Agent or any other Creditor to enforce this Agreement, including the priority of the Liens securing the respective Obligations as provided in Section 2.1.

SECTION 2.3 No New Liens. (a) ABL Obligation — ABL Priority Collateral. So long as the Discharge of ABL Obligations has not occurred, the parties hereto agree that the Grantors shall not, and shall not permit any of their Subsidiaries to (i) grant or permit any additional Liens, or take any action to perfect any additional Liens, on any ABL Priority Collateral to secure any Term Obligation unless the Grantors and each such Subsidiary has become a Grantor hereunder and/or has also granted a Lien on such ABL Priority Collateral to secure the ABL Obligations in accordance with the relevant priority set forth in this Agreement or (ii) grant or permit any additional Liens, or take any action to perfect any additional Liens, on any ABL Priority Collateral to secure any ABL Obligation unless the Grantors and each such Subsidiary has become a Grantor hereunder and/or has also granted a Lien on such ABL Priority Collateral to secure the Term Obligations in accordance with the relevant priority set forth in this Agreement. To the extent that the forgoing provisions are not complied with for any reason, without limiting any other rights and remedies available to the ABL Collateral Agent and/or the other ABL Creditors and the Term Collateral Agent and/or the other Term Creditors (in each case by its acceptance of the benefits of the respective Security Documents), each of the ABL Collateral Agent and Term Collateral Agent agrees that any amounts received by or distributed to any of them pursuant to or as a result of any liens granted in contravention of this Section 2.3(a) shall be subject to Section 4.2(a).

(b) Term Obligations — Term Priority Collateral. So long as the Discharge of Term Obligations has not occurred, the parties hereto agree that the Grantors shall not, and shall not permit any of their Subsidiaries to (i) grant or permit any additional Liens, or take any action to perfect any additional Liens, on any Term Priority Collateral to secure any ABL Obligation unless the Grantors and each such Subsidiary has become a Grantor hereunder and/or has also

granted a Lien on such Term Priority Collateral to secure the Term Obligations in accordance with the relevant priority set forth in this Agreement or (ii) grant or permit any additional Liens, or take any action to perfect any additional Liens, on any Term Priority Collateral to secure any Term Obligation unless the Grantors and each such Subsidiary has become a Grantor hereunder and/or has also granted a Lien on such Term Priority Collateral to secure the ABL Obligations in accordance with the relevant priority set forth in this Agreement. To the extent that the forgoing provisions are not complied with for any reason, without limiting any other rights and remedies available to the Term Collateral Agent and/or the other Term Creditors and the ABL Collateral Agent and/or the other ABL Creditors (in each case by its acceptance of the benefits of the respective Security Documents), each of the ABL Collateral Agent and Term Collateral Agent agrees that any amounts received by or distributed to any of them pursuant to or as a result of any liens granted in contravention of this Section 2.3(b) shall be subject to Section 4.2(c).

SECTION 2.4 Similar Liens and Agreements. The parties hereto agree that it is their intention that the Collateral under the ABL Loan Documents and the Term Loan be identical. In furtherance of the foregoing and of Section 8.9, the parties hereto agree, subject to the other provisions of this Agreement:

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

(b) that the ABL Security Agreement and Term Security Agreement shall be substantially in the same forms (except for differences relating to the subordination of the Liens between the ABL Obligations and Term Obligations).

ARTICLE III

ENFORCEMENT

SECTION 3.1 Exercise of Remedies. (a) ABL Priority Collateral — No Contest by Term Creditors. The provisions of this clause (a) are subject to clause (k) below. So long as the Discharge of ABL Obligations has not occurred, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against the Borrower or any other Grantor: (i) the Term Collateral Agent and the other Term Creditors will not exercise or seek to exercise any rights or remedies (including, without limitation, setoff) with respect to any ABL Priority Collateral (including, without limitation, the exercise of any right under any lockbox agreement, control account agreement, landlord waiver or bailee's letter or similar agreement or arrangement to which any of the Term Collateral Agent or any Term Creditor is a party) or institute or commence, or join with any Person in commencing, any action or proceeding with respect to such rights or remedies (including, without limitation, any action of foreclosure, enforcement, collection or execution and any Insolvency or Liquidation Proceeding), and will not contest, protest or object to any foreclosure proceeding or action brought by the ABL Collateral Agent or

any ABL Creditor or any other exercise by the ABL Collateral Agent or any ABL Creditor, of any rights and remedies relating to the ABL Priority Collateral under the ABL Loan Documents or otherwise, or object to the forbearance by the ABL Collateral Agent or the ABL Creditors from bringing or pursuing any foreclosure proceeding or action or any other exercise of any rights or remedies relating to the ABL Priority Collateral; and (ii) the ABL Collateral Agent shall have the exclusive right, and the Required ABL Creditors shall have the exclusive right to instruct the ABL Collateral Agent, to enforce rights, exercise remedies (including, without limitation, set-off and the right to credit bid their debt) and make determinations regarding the release, disposition, or restrictions with respect to the ABL Priority Collateral without any consultation with or the consent of any of the Term Collateral Agent or any Term Creditor, all as though the Term Obligations did not exist; provided, that (A) in any Insolvency or Liquidation Proceeding commenced by or against the Borrower or any Grantor, the Term Collateral Agent and, if applicable, each other Term Creditor may file a claim or statement of interest with respect to the Term Obligations, (B) the Term Collateral Agent may take any action (not adverse to the prior Liens on the ABL Priority Collateral securing the ABL Obligations, or the rights of the ABL Collateral Agent or the ABL Creditors to exercise remedies in respect thereof) in order to preserve or protect their respective Liens on the ABL Priority Collateral in accordance with the terms of this Agreement and (C) the Term Creditors shall be entitled to file any necessary responsive or defensive pleading in opposition to any motion, claim, adversary proceeding or other pleading made by any Person objecting to or otherwise seeking the disallowance of the claims of the Term Creditors. In exercising rights and remedies with respect to the ABL Priority Collateral, the ABL Collateral Agent and the ABL Creditors may enforce the provisions of the ABL Loan Documents and exercise rights and remedies thereunder, all in such order and in such manner as they may determine in the exercise of their sole

discretion. Such exercise and enforcement shall include the rights of an agent appointed by them to sell or otherwise dispose of ABL Priority Collateral upon foreclosure, to incur expenses in connection with such sale or disposition, and to exercise all the rights and remedies of a secured creditor under the Uniform Commercial Code of any applicable jurisdiction and of a secured creditor under Bankruptcy Laws of any applicable jurisdiction.

(b) Term Priority Collateral — No Contest by ABL Creditors. The provisions of this clause (b) are subject to clause (n) below. So long as the Discharge of Term Obligations has not occurred, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against the Borrower or any other Grantor: (i) the ABL Collateral Agent and the other ABL Creditors will not exercise or seek to exercise any rights or remedies (including, without limitation, setoff) with respect to any Term Priority Collateral (including, without limitation, the exercise of any right under any lockbox agreement, control account agreement, landlord waiver or bailee's letter or similar agreement or arrangement to which any of the ABL Collateral Agent or any ABL Creditor is a party) or institute or commence, or join with any Person in commencing, any action or proceeding with respect to such rights or remedies (including, without limitation, any action of foreclosure, enforcement, collection or execution and any Insolvency or Liquidation Proceeding), and will not contest, protest or object to any foreclosure proceeding or action brought by the Term Collateral Agent or any Term Creditor or any other exercise by the Term Collateral Agent or any Term Creditor, of any rights and remedies relating to the Term Priority Collateral under the Term Loan Documents or otherwise, or object to the forbearance by the Term Collateral Agent or the Term Creditors from bringing or pursuing any foreclosure proceeding or action or any other exercise of any rights or remedies relating to the

Term Priority Collateral; and (ii) the Term Collateral Agent shall have the exclusive right, and the Required Term Creditors shall have the exclusive right to instruct the Term Collateral Agent, to enforce rights, exercise remedies (including, without limitation, set-off and the right to credit bid their debt) and make determinations regarding the release, disposition, or restrictions with respect to the Term Priority Collateral without any consultation with or the consent of any of the ABL Collateral Agent or any ABL Creditor, all as though the ABL Obligations did not exist; provided, that in any Insolvency or Liquidation Proceeding commenced by or against the Borrower or any other Grantor, (A) the ABL Collateral Agent and, if applicable, each other ABL Creditor may file a claim or statement of interest with respect to the ABL Obligations, (B) the ABL Collateral Agent may take any action (not adverse to the prior Liens on the Term Priority Collateral securing the Term Obligations, or the rights of the Term Collateral Agent or the Term Creditors to exercise remedies in respect thereof) in order to preserve or protect their respective Liens on the Term Priority Collateral in accordance with the terms of this Agreement and (C) the ABL Creditors shall be entitled to file any necessary responsive or defensive pleading in opposition to any motion, claim, adversary proceeding or other pleading made by any Person objecting to or otherwise seeking the disallowance of the claims of the ABL Creditors, including any claim secured by the Term Priority Collateral, if any, in each case in accordance with the terms of this Agreement. In exercising rights and remedies with respect to the Term Priority Collateral, the Term Collateral Agent and the Term Creditors may enforce the provisions of the Term Loan Documents and exercise rights and remedies thereunder, all in such order and in such manner as they may determine in the exercise of their sole discretion. Such exercise and enforcement shall include the rights of an agent appointed by them to sell or otherwise dispose of Term Priority Collateral upon foreclosure, to incur expenses in connection with such sale or disposition, and to exercise all the rights and remedies of a secured creditor under the Uniform Commercial Code of any applicable jurisdiction and of a secured creditor under Bankruptcy Laws of any applicable jurisdiction.

(c) [RESERVED]

(d) [RESERVED]

(e) Receipt of ABL Priority Collateral by Term Creditors. The Term Collateral Agent, on behalf of itself and the Term Creditors, and each other Term Creditor (by its acceptance of the benefits of the Term Loan Documents) agree that it will not take or receive any ABL Priority Collateral or any proceeds of ABL Priority Collateral in connection with the exercise of any right or remedy (including, without limitation; setoff) with respect to any ABL Priority Collateral, unless and until the Discharge of ABL Obligations has occurred. Without limiting the generality of the foregoing, unless and until the Discharge of ABL Obligations has occurred, the sole right of the Term Collateral Agent and the Term Creditors with respect to the ABL Priority Collateral is to hold a Lien on the ABL Priority Collateral pursuant to the Term Security Documents for the period and to the extent granted therein and to receive a share of the proceeds thereof, if any, after the Discharge of the ABL Obligations has occurred in accordance with the terms of Article IV hereof, the Term Loan Documents and applicable law.

(f) Receipt of Term Priority Collateral by ABL Creditors. The ABL Collateral Agent, on behalf of itself and the ABL Creditors, and each other ABL Creditor (by its acceptance of the benefits of the ABL Loan Documents) agree that it will not take or receive any

Term Priority Collateral or any proceeds of Term Priority Collateral in connection with the exercise of any right or remedy (including, without limitation, setoff) with respect to any Term Priority Collateral, unless and until the Discharge of Term Obligations has occurred. Without limiting the generality of the foregoing, unless and until the Discharge of Term Obligations has occurred, the sole right of the ABL Collateral Agent and the ABL Creditors with respect to the Term Priority Collateral is to hold a Lien on the Term Priority Collateral pursuant to the ABL Security Documents for the period and to the extent granted therein and to receive a share of the proceeds thereof, if any, after the Discharge of the Term Obligations has occurred in accordance with the terms of Article IV hereof, the ABL Loan Documents and applicable law.

(g) ABL Priority Collateral — Term Creditor Waiver. (i) The Term Collateral Agent, for itself and on behalf of the Term Creditors, and each other Term Creditor (by its acceptance of the benefits of the Term Loan Documents), with respect to the ABL Priority Collateral, (x) agrees that the Term Collateral Agent and the other Term Creditors will not take any action that would hinder, delay, limit or prohibit any exercise of remedies under the ABL Loan Documents, including any collection, sale, lease, exchange, transfer or other disposition of the ABL Priority Collateral, whether by foreclosure or otherwise, or that would limit, invalidate, avoid or set aside any Lien or ABL Security Document or subordinate the priority of the ABL Obligations to the Term Obligations or grant the Liens securing the Term Obligations equal ranking to the Liens securing the ABL Obligations and (y) hereby waives any and all rights it or the Term Creditors may have as a junior lien creditor or otherwise (whether arising under the UCC or under any other law) to object to the manner in which the ABL Collateral Agent or the ABL Creditors seek to enforce or collect the ABL Obligations or the Liens granted in any of the ABL Priority Collateral, regardless of whether any action or failure to act by or on behalf of the ABL Collateral Agent or ABL Creditors is adverse to the interests of the Term Creditors.

(ii) The Term Collateral Agent hereby acknowledges and agrees that no covenant, agreement or restriction contained in the Term Security Documents or any other Term Loan Document shall be deemed to restrict in any way the rights and remedies of the ABL Collateral Agent or the ABL Creditors with respect to the ABL Priority Collateral as set forth in this Agreement.

(h) Term Priority Collateral — ABL Creditor Waiver. (i) The ABL Collateral Agent, for itself and on behalf of the ABL Creditors, and each other ABL Creditor (by its acceptance of the benefits of the ABL Loan Documents), with respect to the Term Priority Collateral, (x) agrees that the ABL Collateral Agent and the other ABL Creditors will not take any action that would hinder, delay, limit or prohibit any exercise of remedies under the Term Loan Documents, including any collection, sale, lease, exchange, transfer or other disposition of the Term Priority Collateral, whether by foreclosure or otherwise, or that would limit, invalidate, avoid or set aside any Lien or Term Security Document or subordinate the priority of the Term Obligations to the ABL Obligations or grant the Liens securing the ABL Obligations equal ranking to the Liens securing the Term Obligations and (y) hereby waives any and all rights it or the ABL Creditors may have as a junior lien creditor or otherwise (whether arising under the UCC or under any other law) to object to the manner in which the Term Collateral Agent or the Term Creditors seek to enforce or collect the Term Obligations or the Liens granted in any of the Term Priority Collateral, regardless of whether any action or failure to act by or on behalf of the Term Collateral Agent or Term Creditors is adverse to the interests of the ABL Creditors.

(ii) The ABL Collateral Agent hereby acknowledges and agrees that no covenant, agreement or restriction contained in the ABL Security Documents or any other ABL Loan Document shall be deemed to restrict in any way the rights and remedies of the Term Collateral Agent or the Term Creditors with respect to the Term Priority Collateral as set forth in this Agreement.

(i) [RESERVED]

(j) [RESERVED]

(k) ABL Priority Collateral — Term Creditor Rights. Notwithstanding anything to the contrary in Section 3.1(a) through (h), with respect to the ABL Priority Collateral, at any time while a payment default exists with respect to the Term Obligations following the final maturity of the Term Obligations, or the acceleration by the relevant Term Creditors of the maturity of all then outstanding Term Obligations, and in either case so long as 120 days have elapsed after notice thereof (and requesting that enforcement action be taken with respect to the ABL Priority Collateral) has been received by the ABL Collateral Agent and so long as the respective payment default shall not have been cured or waived (or the respective acceleration rescinded), the Term Collateral Agent, for itself and on behalf of the Term Creditors, and the other Term Creditors may, but only if the ABL Collateral Agent or the ABL Creditors are not pursuing enforcement proceedings with respect to the ABL Priority Collateral in a commercially reasonable manner (with any determination of which ABL Priority Collateral to proceed against, and in what order, to be made by the ABL Collateral Agent or such ABL Creditors in their reasonable judgment), enforce the Liens on ABL Priority Collateral granted pursuant to the Term Security Documents, provided that (x) any ABL Priority Collateral or any proceeds of ABL Priority Collateral received by the Term Collateral Agent or such other Term Creditor, as the case may be, in connection with the enforcement of such Lien (net of reasonable costs actually incurred in connection with such enforcement) shall be applied in accordance with the following Article IV hereof and (y) the ABL Collateral Agent or any other ABL Creditors may at any time take over such enforcement proceedings, provided that the ABL Collateral Agent or such ABL Creditors, as the case may be, pursues enforcement proceedings in respect of the ABL Priority Collateral in a commercially reasonably manner, with any determination of which ABL Priority Collateral to proceed against, and in what order, to be made by the ABL Collateral Agent or such ABL Creditors in their reasonable judgment, and provided, further that the Term Collateral Agent or Term Creditors, as the case may be, shall only be able to recoup (from amounts realized by the ABL Collateral Agent or any ABL Creditor(s) in any enforcement proceeding with respect to the ABL Priority Collateral (whether initiated by the ABL Collateral Agent or ABL Creditor(s) or taken over by them as contemplated above) any expenses incurred by them in accordance with the priorities set forth in following Article IV.

(l) [RESERVED]

(m) [RESERVED]

(n) Term Priority Collateral — ABL Creditor Rights. Notwithstanding anything to the contrary in Section 3.1(a) through (h) with respect to the Term Priority Collateral, at any time while a payment default exists with respect to the ABL Obligations following the

final maturity of the ABL Obligations, or the acceleration by the relevant ABL Creditors of the maturity of all then outstanding ABL Obligations, and in either case so long as 120 days have elapsed after notice thereof (and requesting that enforcement action be taken with respect to the Term Priority Collateral) has been received by the Term Collateral Agent and so long as the respective payment default shall not have been cured or waived (or the respective acceleration rescinded), the ABL Collateral Agent, for itself and on behalf of the ABL Creditors, and the other ABL Creditors may, but only if the Term Collateral Agent or the Term Creditors are not pursuing enforcement preceding with respect to the Term Priority Collateral in a commercially reasonable manner (with any determination of which Term Priority Collateral to proceed against, and in what order, to be made by the Term Collateral Agent or such Term Creditors in their reasonable judgment), enforce the Liens on Term Priority Collateral granted pursuant to the ABL Security Documents, provided that (x) any Term Priority Collateral or any proceeds of Term Priority Collateral received by the ABL Collateral Agent or such other ABL Creditor, as the case may be, in connection with the enforcement of such Lien (net of reasonable costs actually incurred in connection with such enforcement) shall be applied in accordance with the following Article IV hereof and (y) the Term Collateral Agent or any other Term Creditors or may at any time take over such enforcement proceedings, provided that the Term Collateral Agent or such Term Creditors, as the case may be, pursues enforcement proceedings in respect of the Term Priority Collateral in a commercially reasonably manner, with any determination of which Term Priority Collateral to proceed against, and in what order, to be made by the Term Collateral Agent or such Term Creditors in their reasonable judgment, and provided, further that the ABL Collateral Agent or ABL Creditors, as the case may be, shall only be able to recoup (from amounts realized by the Term Collateral Agent or any Term Creditor(s)) in any enforcement proceeding with respect to the collateral (whether initiated by the Term Collateral Agent or Term Creditor(s), or taken over by them as contemplated above) any expenses incurred by them in accordance with the priorities set forth in following Article IV.

ARTICLE IV

PAYMENTS

SECTION 4.1 Application of Proceeds. (a) ABL Priority Collateral. So long as the Discharge of ABL Obligations has not occurred, any proceeds of any ABL Priority Collateral pursuant to the enforcement of any Security Document or the exercise of any remedial provision thereunder, together with all other proceeds received by any Creditor as a result of any such enforcement or the exercise of any such remedial provision or as a result of any distribution of or in respect of any ABL Priority Collateral (whether or not expressly characterized as such) upon or in any Insolvency or Liquidation Proceeding with respect to any Grantor, or the application of any Collateral (or proceeds thereof) to the payment thereof or any distribution of ABL Priority Collateral (or proceeds thereof) upon the liquidation or dissolution of any Grantor, shall be applied by the ABL Collateral Agent (or paid over to the ABL Collateral Agent and applied by it) to the ABL Obligations in such order as specified in the relevant ABL Loan Document. Upon the Discharge of the ABL Obligations and so long as Discharge of Term Obligations has not occurred, the ABL Collateral Agent shall deliver to the Term Collateral Agent any proceeds of ABL Priority Collateral held by it in the same form as received, with any necessary endorsements or as a court of competent jurisdiction may otherwise direct.

(b) Term Priority Collateral. So long as the Discharge of Term Obligations has not occurred, any proceeds of any Term Priority Collateral pursuant to the enforcement of any Security Document or the exercise of any remedial provision thereunder, together with all other proceeds received by any Creditor as a result of any such enforcement or the exercise of any such remedial provision or as a result of any distribution of or in respect of any Term Priority Collateral (whether or not expressly characterized as such) upon or in any Insolvency or Liquidation Proceeding with respect to any Grantor, or the application of any Term Priority Collateral (or proceeds thereof) to the payment thereof or any distribution of Term Priority Collateral (or proceeds thereof) upon the liquidation or dissolution of any Grantor, shall be applied by the Term Collateral Agent (or paid over to the Term Collateral Agent and applied by it) to the Term Obligations in such order as specified in the relevant Term Loan Document. Upon the Discharge of the Term Obligations and so long as the Discharge of ABL Obligations has not occurred, the Term Collateral Agent shall deliver to the ABL Collateral Agent any proceeds of Term Priority Collateral held by it in the same form as received, with any necessary endorsements or as a court of competent jurisdiction may otherwise direct.

SECTION 4.2 Payments Over. (a) ABL Priority Collateral. Until such time as the Discharge of ABL Obligations has occurred, any ABL Priority Collateral or proceeds thereof (together with assets or proceeds subject to Liens referred to in the final sentence of Section 2.3(a)) (or any distribution in respect of the ABL

Priority Collateral, whether or not expressly characterized as such) received by any of the Term Collateral Agent or any Term Creditors in connection with the exercise of any right or remedy (including set-off) relating to the ABL Priority Collateral or otherwise shall be segregated and held in trust and forthwith paid over to the ABL Collateral Agent for the benefit of the ABL Creditors in the same form as received, with any necessary endorsements or as a court of competent jurisdiction may otherwise direct. The ABL Collateral Agent is hereby authorized to make any such endorsements as agent for any of the Term Collateral Agent or any such Term Creditors. This authorization is coupled with an interest and is irrevocable until such time as this Agreement is terminated in accordance with its terms.

(b) [RESERVED]

(c) Term Priority Collateral. Until such time as the Discharge of Term Obligations has occurred, any Term Priority Collateral or proceeds thereof (together with assets or proceeds subject to Liens referred to in the final sentence of Section 2.3(b)) (or any distribution in respect of the Term Priority Collateral, whether or not expressly characterized as such) received by the ABL Collateral Agent or any ABL Creditors in connection with the exercise of any right or remedy (including set-off) relating to the Term Priority Collateral or otherwise shall be segregated and held in trust and forthwith paid over to the Term Collateral Agent for the benefit of the Term Creditors in the same form as received, with any necessary endorsements or as a court of competent jurisdiction may otherwise direct. The Term Collateral Agent is hereby authorized to make any such endorsements as agent for the ABL Collateral Agent or any such ABL Creditors. This authorization is coupled with an interest and is irrevocable until such time as this Agreement is terminated in accordance with its terms.

(d) [RESERVED]

ARTICLE V

OTHER AGREEMENTS

SECTION 5.1 Releases.

(a) ABL Priority Collateral. If, in connection with:

(i) the exercise of the ABL Collateral Agent's remedies in respect of the ABL Priority Collateral provided for inSection 3.1, including any sale, lease, exchange, transfer or other disposition of any such ABL Priority Collateral; or

(ii) any sale, lease, exchange, transfer or other disposition of any ABL Priority Collateral permitted under the terms of the ABL Loan Documents and Term Loan Documents (in each case, as in effect on the date hereof and whether or not an "event of default" under any of such documents has occurred and is continuing),

there occurs the release by the ABL Collateral Agent, acting on its own or at the direction of the Required ABL Creditors, of any of its Liens on any part of the ABL Priority Collateral, or of any Grantor from its obligations under its guaranty of the ABL Obligations, then the Liens, if any, of the Term Collateral Agent, for itself and for the benefit of the Term Creditors and of any other Term Creditor, on such ABL Priority Collateral, and the obligations of such Grantor under its guaranties (if any) of the Term Obligations, shall be automatically, unconditionally and simultaneously released, and the Term Collateral Agent, for itself and on behalf of any such Term Creditors, promptly shall execute and deliver to the ABL Collateral Agent or such Grantor such termination statements, releases and other documents as the ABL Collateral Agent or such Grantor may request to effectively confirm such release; provided, however that if an "event of default" then exists under the Term Credit Agreement and the Discharge of ABL Obligations occurs concurrently with the effectiveness of any such release, the Term Collateral Agent shall be entitled to receive the residual cash or cash equivalents (if any) remaining after giving effect to such release and the Discharge of the ABL Obligations for application in accordance with the provisions of Section 4 hereof.

(b) [RESERVED]

(c) [RESERVED]

(d) Term Priority Collateral. If, in connection with:

(i) the exercise of the Term Collateral Agent's remedies in respect of the Term Priority Collateral provided for inSection 3.1, including any sale, lease, exchange, transfer or other disposition of any such Term Priority Collateral; or

(ii) any sale, lease, exchange, transfer or other disposition of any Term Priority Collateral permitted under the terms of the Term Loan Documents and ABL Loan Documents (in each case, as in effect on the Closing Date and whether or not an "event of default" under any of such documents has occurred and is continuing);

there occurs the release by the Term Collateral Agent, acting on its own or at the direction of the Required Term Creditors, of any of its Liens on any part of the Term Priority Collateral, or of any Grantor from its obligations under its guaranty of the Term Obligations, then the Liens, if any, of the ABL Collateral Agent, for itself and for the benefit of the ABL Creditors, and of any other ABL Creditor, on such Collateral, and the obligations of such Grantor under its guaranties (if any) of the ABL Obligations, shall be automatically, unconditionally and simultaneously released, and the ABL Collateral Agent, for itself and on behalf of any such ABL Creditors, promptly shall execute and deliver to the Term Collateral Agent or such Grantor such termination statements, releases and other documents as the Term Collateral Agent or such Grantor may request to effectively confirm such release; provided, however that if an "event of default" then exists under the ABL Credit Agreement and the Discharge of Term Obligations occurs concurrently with the effectiveness of any such release, the ABL Collateral Agent shall be entitled to receive the residual cash or cash equivalents (if any) remaining after giving effect to such release and the Discharge of the Term Obligations for application in accordance with the provisions of Section 4 hereof.

(e) [RESERVED]

(f) [RESERVED]

SECTION 5.2 Insurance - ABL Priority Collateral. (a) Unless and until the Discharge of ABL Obligations has occurred, the ABL Collateral Agent (acting at the direction of the Required ABL Creditors) shall have the sole and exclusive right, as between the ABL Collateral Agent and the Term Collateral Agent, to adjust settlement under any insurance policy covering the ABL Priority Collateral in the event of any loss thereunder to the extent relating to the ABL Priority Collateral and to approve any award granted in any condemnation or similar proceeding (or any deed in lieu of condemnation) to the extent relating to the ABL Priority Collateral. Unless and until the Discharge of ABL Obligations has occurred, and subject to the rights of the Grantors under the ABL Security Documents, all proceeds of any such policy and any such award (or any payments with respect to a deed in lieu of condemnation) in respect to the ABL Priority Collateral shall be paid to the ABL Collateral Agent for the benefit of the ABL Creditors pursuant to the terms of the ABL Loan Documents (including, without limitation, for purposes of cash collateralization of ABL Obligations consisting of commitments, letters of credit and ABL Hedge Agreements (to the extent required thereby with notification by the relevant ABL Hedge Provider to the ABL Collateral

Agent)) and, after the Discharge of ABL Obligations has occurred, to the Term Collateral Agent for the benefit of the Term Creditors to the extent required under the Term Security Documents, and then, to the extent no Term Obligations are outstanding, to the owner of the subject property, such other Person as may be entitled thereto or as a court of competent jurisdiction may otherwise direct. If either the Term Collateral Agent or any Term Creditors shall, at any time prior to the Discharge of ABL Obligations, receive any proceeds of any such insurance policy or any such award or payment in contravention of this Agreement, it shall pay such proceeds over to the ABL Collateral Agent.

(b) Term Priority Collateral. Unless and until the Discharge of Term Obligations has occurred, the Term Collateral Agent (acting at the direction of the Required Term Creditors) shall have the sole and exclusive right, as between the Term Collateral Agent and the ABL Collateral Agent, to adjust settlement under any insurance policy covering the

Term Priority Collateral in the event of any loss thereunder to the extent relating to the ABL Priority Collateral and to approve any award granted in any condemnation or similar proceeding (or any deed in lieu of condemnation) to the extent relating to the Term Priority Collateral. Unless and until the Discharge of Term Obligations has occurred, and subject to the rights of the Grantors under the Term Security Documents, all proceeds of any such policy and any such award (or any payments with respect to a deed in lieu of condemnation) in respect to the Term Priority Collateral shall be paid to the Term Collateral Agent for the benefit of the Term Creditors pursuant to the terms of the Term Loan Documents (including, without limitation, for purposes of cash collateralization of Term Obligations consisting of commitments and letters of credit) and, after the Discharge of Term Obligations has occurred, to the ABL Collateral Agent for the benefit of the ABL Creditors to the extent required under the ABL Security Documents and then, to the extent no ABL Obligations are outstanding, to the owner of the subject property, such other Person as may be entitled thereto or as a court of competent jurisdiction may otherwise direct. If either the ABL Collateral Agent or any ABL Creditors shall, at any time prior to the Discharge of Term Obligations, receive any proceeds of any such insurance policy or any such award or payment in contravention of this Agreement, it shall pay such proceeds over to the Term Collateral Agent.

SECTION 5.3 Amendments to Credit Documents.

(a) Amendments to ABL Loan Documents. Without the prior written consent the Required Term Lenders), no ABL Loan Document may be amended, supplemented or otherwise modified to the extent such amendment, supplement or modification would (i) increase the then outstanding aggregate principal amount of the loans, letters of credit and reimbursement obligations under the ABL Credit Agreement plus, if any, any undrawn portion of any commitment under the ABL Credit Agreement in excess of the Maximum ABL Principal Amount, (ii) contravene the provisions of this Agreement, (iii) increase the "Applicable Margin" or similar component of the interest or the yield on the loans thereunder by more than 1.5% per annum (exclusive, for the avoidance of doubt, of any (A) increases resulting from application of the pricing grid set forth in the ABL Credit Agreement as of the date hereof or (B) increases of up to 2.0% resulting from the accrual of interest at the default rate), (iv) provide for scheduled dates for payment of principal, interest, premium (if any) or fees which are earlier than such dates under the ABL Credit Agreement, or (v) convert the ABL Credit Agreement to, or refinance the ABL Credit Agreement with, a term loan credit facility or a revolving credit facility the availability of which is not subject to a borrowing base comprised of accounts receivable and inventory.

(b) Amendments to Term Loan Documents. Without the prior written consent of the Required ABL Lenders), no Term Loan Document may be amended, supplemented or otherwise modified to the extent such amendment, supplement or modification would (i) contravene the provisions of this Agreement, (ii) increase the then outstanding aggregate principal amount of the loans under the Term Credit Agreement in excess of the Maximum Term Principal Amount, (iii) increase the "Applicable Margin" or similar component of the interest yield of the loans thereunder by more than 3.0% per annum from the "Applicable Margin" or similar component under the Term Credit Agreement as in effect as of the date hereof (exclusive, for the avoidance of doubt, of (A) increases resulting from application of the pricing grid set forth in the Term Credit Agreement as of the date hereof or (B) increases of up to 2.0% resulting

from the accrual of interest at the default rate) or (iv) provide for scheduled dates for payment of principal, interest, premiums (if any) or fees which are earlier than such dates under the Term Credit Agreement.

SECTION 5.4 Amendments to Security Documents. (a) Amendments to Security Documents.

(i) Without the prior written consent of the ABL Collateral Agent (acting at the direction of the Required ABL Creditors), no Term Security Document may be amended, supplemented or otherwise modified or entered into to the extent such amendment, supplement or modification, or the terms of any new Term Security Document, would contravene the provisions of this Agreement or any ABL Loan Document.

(ii) Without the prior written consent of the Term Collateral Agent (acting at the direction of the Required Term Creditors), no ABL Security Document may be amended, supplemented or otherwise modified or entered into to the extent such amendment, supplement or modification, or the terms of any new ABL Security Document, would contravene the provisions of this Agreement.

(iii) [RESERVED]

(iv) Each Grantor and each ABL Creditor agrees that each ABL Security Document shall include the following language (or language of similar impact):

> "Notwithstanding anything herein to the contrary, the lien and security interest granted to the ABL Collateral Agent pursuant to this Agreement and the exercise of any right or remedy by the ABL Collateral Agent hereunder are subject to the provisions of the Intercreditor Agreement, dated as of May 21, 2007 (as amended, restated, supplemented or otherwise modified from time to time in accordance with the- terms thereof, the "Intercreditor Agreement"), by and among Douglas Dynamics Company, L.L.C., Douglas Dynamics Holdings, Inc., Douglas Dynamics Finance Company and Fischer, LLC, the grantors from time to time party thereto, JPMorgan Chase Bank, N.A., as ABL Collateral Agent, and Credit Suisse, Cayman Island Branch, as Term Collateral Agent, and certain other persons party or that may become party thereto from time to time. In the event of any conflict between the terms of the Intercreditor Agreement and this Agreement, the terms of the Intercreditor Agreement shall govern and control."

In addition, the Borrower agrees that each ABL Mortgage covering any Term Priority Collateral shall contain such other language as the Term Collateral Agent may reasonably request to reflect the subordination of such ABL Mortgage to the Term Security Document covering such Collateral.

(v) Each Grantor and each Term Creditor agrees that each Term Security Document shall include the following language (or language of similar impact):

"Notwithstanding anything herein to the contrary, the lien and security interest granted to the Term Collateral Agent pursuant to this Agreement and the exercise of any right or remedy by the Term Collateral Agent hereunder are subject to the provisions of the Intercreditor Agreement, dated as of May 21, 2007 (as amended, restated, supplemented or otherwise modified from time to time in accordance with the- terms thereof, the "Intercreditor Agreement"), by and among Douglas Dynamics Company, L.L.C., Douglas Dynamics Holdings, Inc., Douglas Dynamics Finance Company and Fischer, LLC, the grantors from time to time party thereto, JPMorgan Chase Bank, N.A., as ABL Collateral Agent, and Credit Suisse, Cayman Island Branch, as Term Collateral Agent, and certain other persons party or that may become party thereto from time to time. In the event of any conflict between the terms of the Intercreditor Agreement and this Agreement, the terms of the Intercreditor Agreement shall govern and control."

(b) Amendment to ABL Priority Collateral Security Documents. With respect to the ABL Priority Collateral, in the event that, at any time prior to the Discharge of ABL Obligations, the ABL Collateral Agent or the ABL Creditors and the relevant Grantor(s) enter into any amendment, waiver or consent in respect of any of the ABL Security Documents for the purpose of adding to, or deleting from, or waiving or consenting to any departures from any provisions of, any ABL Security Document or changing in any manner the rights of the ABL Collateral Agent, the ABL Creditors, the Borrower or any other Grantor thereunder, then such amendment, waiver or consent shall apply automatically to any comparable provision of the Comparable Term Security Document without the consent of the Term Collateral Agent or the Term Creditors and without any action by the Term Collateral Agent, the Borrower or any other Grantor, provided, that (A) no such amendment, waiver or consent shall have the effect of (i) removing assets subject to the Lien of the Term Security Documents, except to the extent that a release of such Lien is permitted by Section 5.1 of this Agreement, (ii) imposing additional duties on the Term Collateral Agent without its consent, or (iii) permitting other liens on the ABL Priority Collateral not permitted under the terms of the Term Loan Documents or Article VI hereof and (B) notice of such amendment, waiver or consent shall have been given to the Term Collateral Agent (although the failure to give any such notice shall in no way affect the effectiveness of any such amendment, waiver or consent or impair or affect the Term Collateral Agent's or any Term Creditor's obligations to the ABL Collateral Agent and the ABL Lien Creditors).

(c) Amendment to Term Priority Collateral Security Documents. With respect to the Term Priority Collateral, in the event that, at any time prior to the Discharge of Term Obligations, the Term Collateral Agent or the Term Creditors and the relevant Grantor(s) enter into any amendment, waiver or consent in respect of any of the Term Security Documents for the purpose of adding to, or deleting from, or waiving or consenting to any departures from any provisions of, any Term Security Document or changing in any manner the rights of the Term Collateral Agent, the Term Creditors, the Borrower or any other Grantor thereunder, then such amendment, waiver or consent shall apply automatically to any comparable provision of the Comparable ABL Security Document without the consent of the ABL Collateral Agent or the ABL Creditors and without any action by the ABL Collateral Agent, the Borrower or any other Grantor, provided, that (A) no such amendment, waiver or consent shall have the effect of (i) removing assets subject to the ABL Security Documents, except to the extent that a release of

such Lien is permitted by Section 5.1 of this Agreement, (ii) imposing additional duties on the ABL Collateral Agent without its consent, or (iii) permitting other liens on the Term Priority Collateral not permitted under the terms of the ABL Loan Documents, or Article VI hereof and (B) notice of such amendment, waiver or consent shall have been given to the ABL Collateral Agent (although the failure to give any such notice shall in no way affect the effectiveness of any such amendment, waiver or consent or impair or affect the ABL Collateral Agent's or any ABL Creditor's obligations to the Term Collateral Agent and the Term Creditors).

SECTION 5.5 Rights As Unsecured Creditors. Except as otherwise set forth in this Agreement, the ABL Collateral Agent, the ABL Creditors, the Term Collateral Agent and the Term Creditors may exercise rights and remedies as unsecured creditors against Holdings, Borrower or any Grantor that has guaranteed (x) the ABL Obligations in accordance with the terms of the ABL Loan Documents and applicable law and/or (y) the Term Obligations in accordance with the terms of the Term Loan Documents and applicable law. Except as otherwise set forth in this Agreement nothing in this Agreement shall prohibit the receipt by (x) the ABL Collateral Agent or any ABL Creditors of the required payments of interest and principal on the ABL Obligations or (y) the Term Collateral Agent or any Term Creditors of the required payments of interest and principal on the Term Obligations so long as such receipt is not the direct or indirect result of the exercise by the ABL Collateral Agent or any ABL Lien Creditor or the Term Collateral Agent or any Term Creditor of rights or remedies as a secured creditor (including set-off) or enforcement of any Lien held by any of them. In the event the Term Collateral Agent or any Term Creditor becomes a judgment lien creditor in respect of ABL Priority Collateral as a result of its enforcement of its rights as an unsecured creditor, such judgment lien shall be subordinated to the Liens securing ABL Obligations on the same basis as the other Liens securing the Term Obligations are so subordinated to the ABL Obligations under this Agreement. Nothing in this Agreement impairs or otherwise adversely affects any rights or remedies the ABL Collateral Agent or the ABL Creditors may have with respect to the ABL Priority Collateral. In the event the ABL Collateral Agent or any ABL Creditor becomes a judgment lien creditor in respect of Term Priority Collateral as a result of its enforcement of its rights as an unsecured creditor, such judgment lien shall be subordinated to the Liens securing Term Obligations on the same basis as the other Liens securing the ABL Obligations, as the case may be, are so subordinated to the Term Obligations under this Agreement. Nothing in this Agreement impairs or otherwise adversely affects any rights or remedies the Term Collateral Agent or the Term Creditors may have with respect to the Term Priority Collateral.

SECTION 5.6 Bailee for Perfection. (a) ABL Priority Collateral—Perfection of Security Interest. The ABL Collateral Agent agrees to acquire and acknowledges it holds any ABL Priority Collateral actually in its possession or control (or in the possession or control of its agents or bailees) on behalf of itself and the Term Collateral Agent and any assignee solely for the purpose of perfecting the security interest granted under the ABL Loan Documents and the Term Loan Documents, subject to the terms and conditions of this Section 5.6.

(b) ABL Priority Collateral — Exclusive Treatment. Until the Discharge of ABL Obligations has occurred, the ABL Collateral Agent shall be entitled to deal with the ABL Priority Collateral in accordance with the terms of the ABL Loan Documents as if the Liens of the Term Collateral Agent under the Term Security Documents did not exist. The rights of the Term Collateral Agent shall at all times be subject to the terms of this Agreement and, with

respect to the ABL Priority Collateral, to the ABL Collateral Agent's rights under the ABL Loan Documents.

(c) ABL Priority Collateral — Obligations of Collateral Agents. (i) The ABL Collateral Agent shall have no obligation whatsoever to the ABL Creditors, the Term Collateral Agent or any Term Creditor to assure that the ABL Priority Collateral is genuine or owned by any of the Grantors or to preserve any rights or benefits of any Person except as expressly set forth in this Section 5.6. The duties or responsibilities of the ABL Collateral Agent under this Section 5.6 shall be limited solely to holding any ABL Priority Collateral actually in its possession or control as bailee in accordance with this Section 5.6.

(ii) After the Discharge of ABL Obligations has occurred, the Term Collateral Agent shall have no obligations whatsoever to the Term Creditors to assure that the ABL Priority Collateral is genuine or owned by any of the Grantors or to preserve any rights or benefits of any Person except as expressly set forth in this Section 5.6. The duties or responsibilities of the Term Collateral Agent under this Section 5.6 shall be limited solely to holding any ABL Priority Collateral actually in its possession or control as bailee in accordance with this Section 5.6.

(d) ABL Priority Collateral — Delivery of Remaining ABL Priority Collateral. Upon the Discharge of ABL Obligations, the ABL Collateral Agent shall deliver the remaining ABL Priority Collateral (if any) (or proceeds thereof) in its possession, together with any necessary endorsements, (i) to the Term Collateral Agent, unless the Discharge of Term Obligations has occurred and (ii) if preceding clause (i) does not apply, to the relevant Grantor (in each case, so as to allow such Person to obtain control of such ABL Priority Collateral). The ABL Collateral Agent further agrees to take all other action reasonably requested by such Person in connection with such Person's obtaining a first-priority interest in the ABL Priority Collateral or as a court of competent jurisdiction may otherwise direct.

(e) Term Priority Collateral — Perfection of Security Interest. The Term Collateral Agent agrees to acquire and acknowledges it holds any Term Priority Collateral actually in its possession or control (or in the possession or control of its agents or bailees) on behalf of itself and any assignee and the ABL Collateral Agent and any assignee solely for the purpose of perfecting the security interest granted under the Term Loan Documents and the ABL Loan Documents, subject to the terms and conditions of this Section 5.6.

(f) Term Priority Collateral — Exclusive Treatment. Until the Discharge of Term Obligations has occurred, the Term Collateral Agent shall be entitled to deal with the Term Priority Collateral in accordance with the terms of the Term Loan Documents as if the Liens of the ABL Collateral Agent under the ABL Security Documents did not exist. The rights of the ABL Collateral Agent shall at all times be subject to the terms of this Agreement and, with respect to the Term Priority Collateral, to the Term Collateral Agent's rights under the Term Loan Documents.

(g) Term Priority Collateral—Obligations of Collateral Agents. (i) The Term Collateral Agent shall have no obligation whatsoever to the Term Creditors, the ABL Collateral Agent or any ABL Creditor to assure that the Term Priority Collateral is genuine or owned by

any of the Grantors or to preserve any rights or benefits of any Person except as expressly set forth in this Section 5.6. The duties or responsibilities of the Term Collateral Agent under this Section 5.6 shall be limited solely to holding any Pledged Collateral and Term Priority Collateral actually in its possession or control as bailee in accordance with this Section 5.6.

(ii) After the Discharge of Term Obligations, the ABL Collateral Agent shall have no obligations whatsoever to the ABL Creditors to assure that the Term Priority Collateral is genuine or owned by any of the Grantors or to preserve any rights or benefits of any Person except as expressly set forth in this Section 5.6. The duties or responsibilities of the ABL Collateral Agent under this Section 5.6 shall be limited solely to holding any Term Priority Collateral actually in its possession or control as bailee in accordance with this Section 5.6.

(h) Term Priority Collateral — Delivery of Remaining Collateral. Upon the Discharge of Term Obligations, the Term Collateral Agent shall deliver the remaining Term Priority Collateral (if any) (or proceeds thereof) in its possession, together with any necessary endorsements, (i) to the ABL Collateral Agent, unless the Discharge of ABL Obligations has occurred and (ii) if preceding clause (i) does not apply, to the relevant Grantor (in each case, so as to allow such Person to obtain control of such Term Priority Collateral). The Term Collateral Agent further agrees to take all other action reasonably requested by such Person in connection with such Person's obtaining a first-priority interest in the Term Priority Collateral or as a court of competent jurisdiction may otherwise direct.

(i) No Fiduciary Relationships. No Collateral Agent acting pursuant to this Section 5.6 shall have by reason of the ABL Security Documents, the Term Security Documents, this Agreement or any other document a fiduciary relationship in respect of any other Collateral Agent, any ABL Creditor or any Term Creditor.

SECTION 5.7 When Discharge of Obligations Deemed to Not Have Occurred. (a) ABL Priority Collateral. If the Borrower enters into any Refinancing of any ABL Loan Document evidencing an ABL Obligation, then any Discharge of ABL Obligations effected thereby shall automatically be deemed not to have occurred for all purposes of this Agreement, and the obligations under such Refinancing ABL Loan Document shall automatically be treated as ABL Obligations for all purposes of this Agreement, including for purposes of the Lien priorities and rights in respect of the ABL Priority Collateral and the Term Priority Collateral set forth herein, and the collateral agent under such ABL Loan Documents shall be the ABL Collateral Agent for all purposes of this Agreement. Upon receipt of a notice stating that the Borrower has entered into a new ABL Loan Document (which notice shall include the identity of the new agent, such agent, the "New ABL Agent"), the Term Collateral Agent shall promptly enter into such documents and agreements (including amendments or supplements to this Agreement) as the Borrower or such New ABL Agent may reasonably request in order to provide to the New ABL Agent the rights contemplated hereby, in each case consistent in all material respects with the terms of this Agreement. In addition, a Discharge of ABL Obligations shall be deemed not to have occurred in the circumstances described in Section 6.5.

(b) Term Priority Collateral. If the Borrower enters into any Refinancing of any Term Loan Document evidencing a Term Obligation, then any Discharge of Term

Obligations shall automatically be deemed not to have occurred for all purposes of this Agreement, and the obligations under such Refinancing Term Loan Document shall automatically be treated as Term Obligations for all purposes of this Agreement, including for purposes of the Lien priorities and rights in respect of the ABL Priority Collateral and the Term Priority Collateral set forth herein, and the collateral agent under such Term Loan Documents shall be the Term Collateral Agent for all purposes of this Agreement. Upon receipt of a notice stating that the Borrower has entered into a new Term Loan Document in accordance with the foregoing requirements (which notice shall include the identity of the new agent, such agent, the "New Term Agent"), the ABL Collateral Agent shall promptly enter into such documents and agreements (including amendments or supplements to this Agreement) as the Borrower or such New Term Agent may reasonably request in order to provide to the New Term Agent the rights contemplated hereby, in each case consistent in all material respects with the terms of this Agreement. In addition, a Discharge of Term Obligations shall be deemed not to have occurred in the circumstances described in Section 6.5.

SECTION 5.8 Option to Purchase. (a) Option to Purchase of Term Creditors. If all of the ABL Obligations shall have been accelerated or following the non-payment of the ABL Obligations after the Revolving Termination Date (as such term is defined in the ABL Credit Agreement), the Term Creditors shall have the option at any time upon at least five (5) Business Days' prior written notice by the Term Administrative Agent to the ABL Administrative Agent (with copies to the Borrower) to purchase all, and not less than all, of the ABL Obligations from the ABL Administrative Agent and the ABL Creditors. Such notice from the Term Administrative Agent to the ABL Administrative Agent shall be irrevocable.

(b) Option to Purchase of Term Creditors — Sale Without Consent. On the date specified by the Term Administrative Agent in the notice described in Section 5.8(a) (which shall not be less than five (5) Business Days, nor more than ten (10) Business Days, after the receipt by the ABL Administrative Agent of the notice from the Term Administrative Agent of the election by the Term Creditors to exercise such option), the ABL Administrative Agent and the ABL Creditors shall sell to the Term Creditors exercising such option, and such Term Creditors shall purchase from the ABL Administrative Agent and the ABL Creditors, the ABL Obligations without the prior written consent of the Borrower or any other Grantor.

(c) Option to Purchase of Term Creditors — Procedure. Upon the date of such purchase and sale, the Term Creditors that have exercised such option shall, pursuant to documentation in form and substance reasonably satisfactory to the ABL Administrative Agent, (i) pay to the ABL Creditors as the purchase price therefor the full amount of all the ABL Obligations then outstanding and unpaid (including principal, reimbursement obligations in respect of, if any, letters of credit, the credit exposure of the ABL Creditors under ABL Hedge Agreements, interest, fees and expenses, including reasonable attorneys' fees and legal expenses) at par, (ii) cash collateralize any letters of credit outstanding under the ABL Credit Agreement in an amount reasonably satisfactory to the ABL Agent but in no event greater than 103% of the aggregate undrawn face amount thereof, and (iii) agree to reimburse the ABL Administrative Agent and the ABL Creditors for any loss, cost, damage or expense (including reasonable attorneys' fees and legal expenses) in connection with any commissions, fees, costs or expenses related to any issued and outstanding letters of credit as described above and any checks or other payments provisionally credited to the ABL Obligations, and/or as to which the ABL

Administrative Agent or any ABL Creditor has not yet received final payment. Such purchase price and cash collateral shall be remitted by wire transfer in federal funds to such bank account of the ABL Administrative Agent for the ratable account of the ABL Administrative Agent and the ABL Creditors in New York, New York, as the ABL Administrative Agent may designate in writing to the Term Administrative Agent for such purpose. Interest shall be calculated to but excluding the Business Day on which such purchase and sale shall occur if the amounts so paid by the Term Creditors that have exercised such option to the bank account designated by the ABL Administrative Agent are received in such bank account prior to 1:00 p.m., New York City time and interest shall be calculated to and including such Business Day if the amounts so paid by such Term Creditors to the bank account designated by the ABL Administrative Agent are received in such bank account later than 1:00 p.m., New York City time on such Business Day.

(d) Option to Purchase of Term Creditors — Without Recourse. Such purchase shall be expressly made without recourse, representation or warranty of any kind by the ABL Administrative Agent or any ABL Creditors as to the ABL Obligations owed to such Person or otherwise, except that each such Person shall represent and warrant: (i) the amount of the ABL Obligations being sold by it, (ii) that such Person has not created any Lien on any ABL Obligation being sold by it and (iii) that such Person has the right to assign ABL Obligations being assigned by it and its assignment is duly authorized.

(e) Option to Purchase of Term Creditors — Foreclosure. The ABL Administrative Agent agrees that prior to foreclosing upon all or a material portion of the ABL Priority Collateral, it will provide the Term Administrative Agent with at least five (5) days' notice of its intent to commence such foreclosure. If the Term Administrative Agent shall give the ABL Administrative Agent written notice of any Term Creditor's intention to exercise the purchase option provided under this Section 5.8 prior to the foreclosure by the ABL Administrative Agent on any ABL Priority Collateral, the ABL Administrative Agent shall not continue such foreclosure action or initiate any other action to sell or otherwise realize upon any of the ABL Priority Collateral so long as the purchase and sale with respect to the ABL Obligations provided for herein shall have closed within ten (10) Business Days thereafter and the ABL Administrative Agent and the ABL Creditors shall have received payment in full of the ABL Obligations as provided for herein within such ten (10) Business Day period.

SECTION 5.9 Entry Upon Premises by the ABL Collateral Agent and the ABL Creditors. (a) ABL Priority Collateral — Cooperation in Enforcement Action. If the ABL Collateral Agent takes any enforcement action with respect to the ABL Priority Collateral, the Term Secured Parties (i) shall cooperate with the ABL Collateral Agent (at the sole cost and expense of the ABL Collateral Agent and subject to the condition that the Term Secured Parties shall have no obligation or duty to take any action or refrain from taking any action that could reasonably be expected to result in the incurrence of any liability or damage to the Term Secured Parties) in its efforts to enforce its security interest in the ABL Priority Collateral and to finish any work-in-process and assemble the ABL Priority Collateral, (ii) shall not take any action designed or intended to hinder or restrict in any respect the ABL Collateral Agent from enforcing its security interest in the ABL Priority Collateral or from finishing any work-in-process or assembling the ABL Priority Collateral, and (iii) shall permit the ABL Collateral Agent, its employees, agents, advisers and representatives, at the sole cost and expense of the ABL Secured Parties and upon reasonable advance notice, to enter upon and use the Term Priority Collateral

(including (x) equipment, processors, computers and other machinery related to the storage or processing of records, documents or files and (y) intellectual property), for a period not to exceed 180 days after the taking of such enforcement action, for purposes of (A) assembling and storing the ABL Priority Collateral and completing the processing of and turning into finished goods of any ABL Priority Collateral consisting of work-in-process, (B) selling any or all of the ABL Priority Collateral located on such Term Priority Collateral, whether in bulk, in lots or to customers in the ordinary course of business or otherwise, (C) removing any or all of the ABL Priority Collateral located on such Term Priority Collateral, or (D) taking reasonable actions to protect, secure, and otherwise enforce the rights of the ABL Secured Parties in and to the ABL Priority Collateral, and the Term Secured Parties hereby irrevocably grant to the ABL Collateral Agent a non-exclusive license or other right to use, for such time and without charge, such intellectual property, equipment, processors, computers and other machinery as it pertains to the ABL Priority Collateral in finishing, assembling, advertising for sale and/or selling any ABL Priority Collateral; provided, however, that nothing contained in this Agreement shall restrict the rights of the ABL Collateral Agent from selling, assigning or otherwise transferring any ABL Priority Collateral prior to the expiration of such 180-day period if the purchaser, assignee or transferee thereof agrees to be bound by the provisions of this Section 5.9. If any stay or other order prohibiting the exercise of remedies with respect to the ABL Priority Collateral has been entered by a court of competent jurisdiction, such 180-day period shall be tolled during the pendency of any such stay or other order. If the ABL Collateral Agent conducts a public auction or private sale of the ABL Priority Collateral at any of the real property included within the ABL Priority Collateral, the ABL Collateral Agent shall provide the Term Collateral Agent with reasonable notice and use reasonable efforts to hold such auction or sale in a manner which would not unduly disrupt the Term Collateral Agent's use of such real property.

(b) ABL Priority Collateral—Responsibilities of ABL Secured Parties with respect to Enforcement Action. During the period of actual occupation, use or control by the ABL Secured Parties or their agents or representatives of any Term Priority Collateral, the ABL Secured Parties shall (i) be responsible for the ordinary course third party expenses related thereto, including costs with respect to heat, light, electricity, water and real property taxes with respect to that portion of any premises so used or occupied, and (ii) be obligated to repair at their expense any physical damage to such Term Priority Collateral or other assets or property resulting from such occupancy, use or control, and to leave such Term Priority Collateral or other assets or property in substantially the same condition as it was at the commencement of such occupancy, use or control, ordinary wear and tear excepted. The ABL Secured Parties jointly and severally agree to pay, indemnify and hold the Term Collateral Agent and their respective officers, directors, employees and agents harmless from and against any liability, cost, expense, loss or damages, including legal fees and expenses, resulting from the gross negligence or willful misconduct of the ABL Collateral Agent or any of its agents, representatives or invitees in its or their operation of such facilities. Notwithstanding the foregoing, in no event shall the ABL Secured Parties have any liability to the Term Secured Parties pursuant to this Section 5.9 as a result of any condition (including any environmental condition, claim or liability) on or with respect to the Term Priority Collateral existing prior to the date of the exercise by the ABL Secured Parties of their rights under this Section 5.9 and the ABL Secured Parties shall have no duty or liability to maintain the Term Priority Collateral in a condition or manner better than that in which it was maintained prior to the use thereof by the ABL Secured Parties, or for any diminution in the value of the Term Priority Collateral that results solely from ordinary wear

and tear resulting from the use of the Term Priority Collateral by the ABL Secured Parties in the manner and for the time periods specified under this Section 5.9. Without limiting the rights granted in this paragraph, the ABL Secured Parties shall cooperate with the Term Secured Parties in connection with any efforts made by the Term Secured Parties to sell the Term Priority Collateral.

SECTION 5.10 Rights under Permits and Licenses. The Term Collateral Agent agrees that if the ABL Collateral Agent shall require rights available under any permit or license controlled by the Term Collateral Agent in order to realize on any ABL Priority Collateral, the Term Collateral Agent shall take all such actions as shall be available to it (at the sole expense of the Grantors), consistent with applicable law and reasonably requested by the ABL Collateral Agent to make such rights available to the ABL Collateral Agent, subject to the Liens on the Term Priority Collateral created under the Term Security Documents to secure the Term Obligations. The ABL Collateral Agent agrees that if the Term Collateral Agent shall require rights available under any permit or license controlled by the ABL Collateral Agent in order to realize on any Term Priority Collateral, the ABL Collateral Agent shall take all such actions as shall be available to it (at the sole expense of the Grantors), consistent with applicable law and reasonably requested by the Term Collateral Agent to make such rights available to the Term Collateral Agent, subject to the Liens on the ABL Priority Collateral created under the ABL Security Documents to secure the ABL Obligations.

ARTICLE VI

INSOLVENCY OR LIQUIDATION PROCEEDINGS

SECTION 6.1 Finance and Sale Issues. (a) ABL Creditor Post-Petition Financing. (i) If the Borrower or any other Grantor shall be subject to any Insolvency or Liquidation Proceeding and the ABL Collateral Agent (acting at the direction of the Required ABL Creditors) shall desire to permit the Borrower or any other Grantor to obtain financing (including on a priming basis), from the ABL Creditors under Section 362, 363 or 364 of the Bankruptcy Code or debtor-in-possession financing under any other Bankruptcy Law (each, an "ABL Creditor Post-Petition Financing"), and provided that (A) the aggregate amount of ABL Obligations outstanding as of the commencement of the Insolvency or Liquidation Proceeding is at least $25,000,000 and (B) the Exposure Amount does not exceed the Maximum Exposure Amount at any time during the pendency of the Insolvency or Liquidation Proceeding, then, the Term Collateral Agent, on behalf of itself and the Term Creditors, and each other Term Creditor (by its acceptance of the benefits of the Term Loan Documents), each agree that it will not oppose or raise any objection to or contest (or join with or support any third party opposing, objecting to or contesting), on any basis applicable solely to a secured creditor in such Insolvency or Liquidation Proceeding, such use or provision of ABL Creditor Post-Petition Financing and will not request adequate protection or any other relief in to which a secured creditor may otherwise be entitled in connection therewith (except as expressly agreed in writing by the ABL Collateral Agent or to the extent permitted by Section 6.3) and, to the extent the Liens securing the ABL Obligations are subordinated to or pari passu with such ABL Creditor Post-Petition Financing, its Liens on the ABL Priority Collateral shall be deemed to be subordinated, without any further action on the part of any Person, to the Liens securing such

ABL Creditor Post-Petition Financing (and all Obligations relating thereto), and the Liens securing the Term Obligations shall have the same priority with respect to the ABL Priority Collateral relative to the Liens securing the ABL Obligations as if such ABL Creditor Post-Petition Financing had not occurred and the Liens on the Term Priority Collateral shall be deemed to be subordinated, without any further action on the part of any Person, to the Liens securing such ABL Creditor Post-Petition Financing (and all Obligations relating thereto). Furthermore, and notwithstanding anything to the contrary contained above in this Section 6.1(a), the Term Collateral Agent and the Term Creditors may object for any reason and on any basis (whether assertable by, or applicable to, a secured or general unsecured creditor, and including without limitation, any objection based on the lack of adequate protection) to any ABL Creditor Post-Petition Financing which (A) causes the Exposure Amount to exceed the Maximum Exposure Amount, or (B) is made or permitted to be made at any time that the Exposure Amount exceeds the Maximum Exposure Amount. Notwithstanding anything herein to the contrary, and without limiting the provisions of the immediately preceding sentence, this Section 6.1(a)(i) does not prevent the Term Creditors from (i) objecting to any ABL Post-Petition Financing that purports to govern or control the provisions or content of a plan of reorganization (other than providing for satisfaction in full in cash of the ABL Creditor Post-Petition Financing on or prior to the effective date of such plan of reorganization) or (ii) proposing any other post-petition financing to the Borrower or the Bankruptcy Court.

(ii) The Term Collateral Agent, on behalf of itself and the other Term Creditors, and each other Term Creditor (by its acceptance of the benefits of the Term Loan Documents), each agree that solely in its capacity as a secured creditor and not as an unsecured creditor, it will consent to and raise no objection to, oppose or contest (or join with or support any third party opposing, objecting to or contesting), a sale or other disposition of any ABL Priority Collateral in the context of an Insolvency or Liquidation Proceeding free and clear of its Liens or other claims under Section 363 of the Bankruptcy Code or any other court approved sale pursuant to any other Insolvency and Liquidation Proceeding if the ABL Creditors have consented to such sale or disposition of such assets; provided, that (i) the net cash proceeds from the sale or disposition are applied first to the ABL Obligations and (ii) any such sale or disposition must be approved by the bankruptcy court (or other court) with jurisdiction over the sale (the "Bankruptcy Court") by an order that: (a) contains a specific finding that the sale or disposition being approved is commercially reasonable; and (b) provides that any consideration received in connection with such sale or disposition that exceeds the amount of the ABL Obligations shall be used to satisfy the Term Obligations or shall remain encumbered by the Term Obligations with the same priority and subject to the same limitations set forth herein with respect to their Liens on the ABL Priority Collateral.

(b) Term Creditor Post-Petition Financing. (i) If the Borrower or any other Grantor shall be subject to any Insolvency or Liquidation Proceeding and the Term Collateral Agent (acting at the direction of the Required Term Creditors) shall desire to permit the Borrower or any other Grantor to obtain financing (including on a priming basis), from the Term Creditors under Section 362, 363 or 364 of the Bankruptcy Code or debtor-in-possession financing under any other Bankruptcy Law (each, a "Term Creditor Post-Petition Financing"), and provided that (A) the aggregate amount of ABL Obligations outstanding as of the

commencement of the Insolvency or Liquidation Proceeding is less than $25,000,000 and (B) the Exposure Amount does not exceed the Maximum Exposure Amount at any time during the pendency of the Insolvency or Liquidation Proceeding, then the ABL Collateral Agent, on behalf of itself and the ABL Creditors, and each other ABL Creditor (by its acceptance of the benefits of the ABL Loan Documents), each agree that it will not oppose or raise any objection to or contest (or join with or support any third party opposing, objecting to or contesting), on any basis applicable solely to a secured creditor in such Insolvency or Liquidation Proceeding, such use or provision of Term Creditor Post-Petition Financing and, to the extent the Liens securing the Term Obligations are subordinated to or pari passu with such Term Creditor Post-Petition Financing, its Liens on the Term Priority Collateral shall be deemed to be subordinated, without any further action on the part of any Person, to the Liens securing such Term Creditor Post-Petition Financing (and all Obligations relating thereto). Furthermore, and notwithstanding anything to the contrary contained above in this Section 6.1(b), the ABL Collateral Agent and the ABL Creditors may object for any reason and on any basis (whether assertable by, or applicable to, a secured or general unsecured creditor, and including, without limitation, any objection based on the lack of adequate protection) to any Term Creditor Post-Petition Financing which (A) causes the Exposure Amount to exceed the Maximum Exposure Amount or (B) is made or permitted to be made at any time that the Exposure Amount exceeds the Maximum Exposure Amount. Notwithstanding anything herein to the contrary, and without limiting the provisions of the immediately preceding sentence, this Section 6.1(b)(i) does not prevent the ABL Creditors from (i) objecting to any Term Post-Petition Financing that purports to govern or control the provisions or content of a plan of reorganization (other than providing for satisfaction in full in cash of the Term Creditor Post-Petition Financing on or prior to the effective date of such plan of reorganization) or (ii) proposing any other post-petition financing to the Borrower or the Bankruptcy Court.

(ii) The ABL Collateral Agent, on behalf of itself and the other ABL Creditors, and each other ABL Creditor (by its acceptance of the benefits of the ABL Loan Documents), each agree that solely in its capacity as a secured creditor and not as an unsecured creditor, it will consent to and raise no objection to, oppose or contest (or join with or support any third party opposing, objecting to or contesting), a sale or other disposition of any Term Priority Collateral in the context of an Insolvency or Liquidation Proceeding free and clear of its Liens or other claims under Section 363 of the Bankruptcy Code or any court approved sale pursuant to any other Insolvency or Liquidation Proceeding if the Term Creditors have consented to such sale or disposition of such assets; provided that (i) the net cash proceeds from the sale or disposition are applied first to the Term Obligations and (ii) any such sale or disposition must be approved by the Bankruptcy Court with jurisdiction over the sale by an order that: (a) contains a specific finding that the sale or disposition being approved is commercially reasonable; and (b) provides that any consideration received in connection with such sale or disposition that exceeds the amount of the Term Obligations shall be used to satisfy the ABL Obligations, or shall remain encumbered by the ABL Obligations, with the same priority and subject to the same limitations set forth herein with respect to their Liens on the Collateral.

SECTION 6.2 Relief from the Automatic Stay.

(a) ABL Priority Collateral. Until the Discharge of ABL Obligations has occurred, the Term Collateral Agent, on behalf of itself and the Term Creditors, and each other Term Creditor (by its acceptance of the benefits of the Term Loan Documents) agree that none of them shall seek relief, pursuant to

Section 362(d) of the Bankruptcy Code or otherwise, from the automatic stay of Section 362(a) of the Bankruptcy Code or from any other stay in any Insolvency or Liquidation Proceeding in respect of the ABL Priority Collateral, without the prior written consent of the ABL Collateral Agent.

(b) Term Priority Collateral. Until the Discharge of Term Obligations has occurred, the ABL Collateral Agent, on behalf of itself and the ABL Creditors, and each other ABL Creditor (by its acceptance of the benefits of the ABL Loan Documents), agree that none of them shall seek relief, pursuant to Section 362(d) of the Bankruptcy Code or otherwise, from the automatic stay of Section 362(a) of the Bankruptcy Code or from any other stay in any Insolvency or Liquidation Proceeding in respect of the Term Priority Collateral, without the prior written consent of the Term Collateral Agent.

SECTION 6.3 Adequate Protection. (a) ABL Priority Collateral. (i) The Term Collateral Agent, on behalf of itself and the Term Creditors, and each other Term Creditor (by its acceptance of the benefits of the Term Loan Documents) each agree that, until the Discharge of ABL Obligations has occurred or the termination of the Liens on the ABL Priority Collateral of the ABL Collateral Agent, on behalf of the ABL Creditors, has occurred, with respect to the ABL Priority Collateral, none of them shall oppose, object to or contest (or join with or support any third party opposing, objecting to or contesting) (a) any request by the ABL Collateral Agent or the ABL Creditors for adequate protection in any Insolvency or Liquidation Proceeding (or any granting of such request) or (b) any objection by the ABL Collateral Agent or the ABL Creditors to any motion, relief, action or proceeding based on the ABL Collateral Agent or the ABL Creditors claiming a lack of adequate protection.

(ii) [RESERVED]

(iii) Except as set forth in this Article VI, the Term Collateral Agent and the Term Creditors shall not be limited from seeking adequate protection with respect to their rights in the ABL Priority Collateral in an Insolvency or Liquidation Proceeding (including adequate protection in the form of cash payments of interest or otherwise).

(b) Term Priority Collateral. (i) The ABL Collateral Agent, on behalf of itself and the ABL Creditors, and each other ABL Creditor (by its acceptance of the benefits of the ABL Loan Documents), each agree that, until the Discharge of Term Obligations has occurred or the termination of the Liens on the Term Priority Collateral of the Term Collateral Agent, on behalf of the Term Creditors, has occurred, with respect to the Term Priority Collateral, none of them shall oppose, object to or contest (or join with or support any third party opposing, objecting to or contesting) (a) any request by the Term Collateral Agent or the Term Creditors for adequate protection in any Insolvency or Liquidation Proceeding (or any granting of such request) or (b) any objection by the Term Collateral Agent or the Term Creditors to any motion, relief, action or proceeding based on the Term Collateral Agent or the Term Creditors claiming a lack of adequate protection.

(ii) [RESERVED]

(iii) Except as set forth in this Article VI, the ABL Collateral Agent and the ABL Creditors shall not be limited from seeking adequate protection with respect to their rights in the Term Priority Collateral in an Insolvency or Liquidation Proceeding (including adequate protection in the form of cash payments of interest or otherwise).

SECTION 6.4 No Waiver; Voting Rights. (a) ABL Priority Collateral. (i) Nothing contained herein shall prohibit or in any way limit the ABL Collateral Agent or any ABL Creditor from objecting on any basis in any Insolvency or Liquidation Proceeding or otherwise to any action taken with respect to the ABL Priority Collateral by the Term Collateral Agent or any Term Creditor, including the seeking by the Term Collateral Agent or any Term Creditor of adequate protection or the assertion by the Term Collateral Agent or any Term Creditor of any of its rights and remedies under the Term Loan Documents or otherwise. In any Insolvency or Liquidation Proceeding, neither the Term Collateral Agent nor any other Term Creditor shall propose or support any plan of reorganization, plan or arrangement or disclosure statement, or join with or support any third party in doing so, to the extent the terms of such plan or disclosure statement are inconsistent with the terms of this Agreement as to the treatment of ABL Priority Collateral.

(b) Term Priority Collateral. (i) Nothing contained herein shall prohibit or in any way limit the Term Collateral Agent or any Term Creditor from objecting on any basis in any Insolvency or Liquidation Proceeding or otherwise to any action taken with respect to the Term Priority Collateral by the ABL Collateral Agent or any ABL Creditor, including the seeking by the ABL Collateral Agent or any ABL Creditor of adequate protection or the assertion by the ABL Collateral Agent or any ABL Creditor of any of its rights and remedies under the ABL Loan Documents or otherwise. In any Insolvency or Liquidation Proceeding, neither the ABL Collateral Agent nor any other ABL Creditor shall propose or support any plan of reorganization, plan of arrangement or disclosure statement, or join with or support any third party in doing so, to the extent the terms of such plan or disclosure statement are inconsistent with the terms of this Agreement as to the treatment of Term Priority Collateral.

SECTION 6.5 Preference Issues. (a) Reinstatement of ABL Obligations. If any ABL Creditor is required in any Insolvency or Liquidation Proceeding or otherwise to turn over or otherwise pay to the estate of the Borrower or any other Grantor any amount (an "ABL Recovery"), then the ABL Obligations shall be reinstated to the extent of such ABL Recovery and the ABL Creditors shall be entitled to a reinstatement of ABL Obligations with respect to all such recovered amounts. In such event, any Discharge of ABL Obligations for all purposes of this Agreement shall be deemed to have not occurred (unless and until same subsequently occurs with respect to the ABL Obligations after giving effect to the provisions to this Section 6.5(a)). If this Agreement shall have been terminated prior to such ABL Recovery, this Agreement shall be reinstated in full force and effect (and any prior Discharge of ABL Obligations shall be deemed not to have occurred), and such prior termination shall not diminish, release, discharge, impair or otherwise affect the obligations of the parties hereto from such date of reinstatement. Any amounts received by the Term Collateral Agent or any Term Creditor on account of the Term Obligations from proceeds of ABL Priority Collateral, after the termination of this

Agreement (or any prior Discharge of ABL Obligations) shall, in the event of a reinstatement pursuant to this Section 6.5(a), be held in trust for and paid over to the ABL Collateral Agent for the benefit of the ABL Creditors, for application to the reinstated ABL Obligations.

(b) Reinstatement of Term Obligations. If any Term Creditor is required in any Insolvency or Liquidation Proceeding or otherwise to turn over or otherwise pay to the estate of the Borrower or any other Grantor any amount (a "Term Recovery"), then the Term Obligations shall be reinstated to the extent of such Term Recovery and the Term Creditors shall be entitled to a reinstatement of Term Obligations with respect to all such recovered amounts. In such event, any Discharge of Term Obligations for all purposes of this Agreement shall be deemed to have not occurred (unless and until same subsequently occurs with respect to the Term Obligations after giving effect to the provisions to this Section 6.5(b)). If this Agreement shall have been terminated prior to such Term Recovery, this Agreement shall be reinstated in full force and effect (and any prior Discharge of Term Obligations shall be deemed not to have occurred), and such prior termination shall not diminish, release, discharge, impair or otherwise affect the obligations of the parties hereto from such date of reinstatement. Any amounts received by the ABL Collateral Agent or any ABL Creditor on account of the ABL Obligations from proceeds of Term Priority Collateral, after the termination of this Agreement (or any prior Discharge of Term Obligations) shall, in the event of a reinstatement pursuant to this Section 6.5(b), be held in trust for and paid over to the Term Collateral Agent for the benefit of the Term Creditors, for application to the reinstated Term Obligations.

(c) This Section 6.5 shall survive termination of this Agreement.

SECTION 6.6 Post-Petition Interest. (a) Claims by ABL Creditors. Neither the Term Collateral Agent nor any Term Creditor shall oppose or seek to challenge any claim by the ABL Collateral Agent or any ABL Creditor for allowance in any Insolvency or Liquidation Proceeding of ABL Obligations consisting of post-

petition or post-filing interest, fees or expenses to the extent of the value of the ABL Creditors' Lien on (i) the ABL Priority Collateral (without regard to the existence of the Term Creditors' Lien thereon) and (ii) the Term Priority Collateral (after taking into account the Term Creditors' Lien thereon).

(b) Claims by Term Creditors. Neither the ABL Collateral Agent nor the ABL Creditors shall oppose or seek to challenge any claim by the Term Collateral Agent or any Term Creditor for allowance in any Insolvency or Liquidation Proceeding of Term Obligations consisting of post-petition or post-filing interest, fees or expenses to the extent of the value of the Term Creditors' Lien on (i) the Term Priority Collateral (without regard to the existence of the ABL Creditors' Lien thereon) and (ii) the ABL Priority Collateral (after taking into account the ABL Creditors' Lien thereon).

(c) [RESERVED]

(d) Separate Classes. Without limiting the foregoing, it is the intention of the parties hereto that (and to the maximum extent permitted by law the parties hereto agree that) (x) the Term Obligations (and the security therefor) constitute a separate and distinct class (and separate and distinct claims) from the ABL Obligations (and the security therefor), (y) the ABL

Obligations (and the security therefor) constitute a separate and distinct class (and separate and distinct claims) from the Term Obligations (and the security therefor).

SECTION 6.7 Voting for Plan of Reorganization. Each of the ABL Creditors, and the Term Creditors shall be entitled to vote as separate classes with respect to any plan of reorganization or arrangement in connection with any Insolvency or Liquidation Proceeding; provided, however, that the ABL Administrative Agent, on behalf of itself and the ABL Creditors and the Term Administrative Agent on behalf of itself and the Term Creditors agree that neither the ABL Administrative Agent nor the Term Administrative Agent nor any ABL Creditor nor Term Creditor shall take any action or vote in any way which supports any plan of reorganization or arrangement that is inconsistent with the terms of this Agreement.

ARTICLE VII

RELIANCE; WAIVERS; ETC.

SECTION 7.1 Reliance. Other than any reliance on the terms of this Agreement, the ABL Collateral Agent, on behalf of itself and the ABL Creditors under its ABL Loan Documents, acknowledges that it and such ABL Creditors have, independently and without reliance on the Term Collateral Agent or any Term Creditor, and based on documents and information deemed by them appropriate, made their own credit analysis and decision to enter into such ABL Loan Documents and be bound by the terms of this Agreement and they will continue to make their own credit decision in taking or not taking any action under the ABL Credit Agreement or this Agreement. The Term Collateral Agent, on behalf of itself and the Term Creditors, acknowledges that it and the Term Creditors have, independently and without reliance on the ABL Collateral Agent or any ABL Creditor, and based on documents and information deemed by them appropriate, made their own credit analysis and decision to enter into each of the Term Loan Documents and be bound by the terms of this Agreement and they will continue to make their own credit decision in taking or not taking any action under the Term Loan Documents or this Agreement.

SECTION 7.2 No Warranties or Liability. ABL Collateral Agent, on behalf of itself and the ABL Creditors under the ABL Loan Documents, acknowledge and agree that each of the Term Collateral Agent and the Term Creditors have made no express or implied representation or warranty, including with respect to the execution, validity, legality, completeness, collectibility or enforceability of any of the Term Loan Documents, the ownership of any Collateral or the perfection or priority of any Liens thereon. The Term Creditors will be entitled to manage and supervise their respective loans and extensions of credit under the Term Loan Documents in accordance with law and as they may otherwise, in their sole discretion, deem appropriate. Term Collateral Agent, on behalf of itself and the Term Creditors under the Term Loan Documents, acknowledge and agree that each of the ABL Collateral Agent and the ABL Creditors have made no express or implied representation or warranty, including with respect to the execution, validity, legality, completeness, collectibility or enforceability of any of the ABL Documents, the ownership of any Collateral or the perfection or priority of any Liens thereon. The ABL Creditors will be entitled to manage and supervise their respective loans and extensions of credit under their respective ABL Documents in accordance with law and as they

may otherwise, in their sole discretion, deem appropriate. The Term Collateral Agent and the Term Creditors shall have no duty to the ABL Collateral Agent or any of the ABL Creditors, to act or refrain from acting in a manner which allows, or results in, the occurrence or continuance of an event of default or default under any agreements with the Borrower or any Grantor (including the ABL Loan Documents and the Term Loan Documents), regardless of any knowledge thereof which they may have or be charged with. The ABL Collateral Agent and the ABL Creditors shall have no duty to the Term Collateral Agent or any of the Term Creditors, to act or refrain from acting in a manner which allows, or results in, the occurrence or continuance of an event of default or default under any agreements with the Borrower or any Grantor (including the ABL Loan Documents and the Term Loan Documents), regardless of any knowledge thereof which they may have or be charged with.

SECTION 7.3 No Waiver of Lien Priorities. (a) Failure to Act. (i) No right of the ABL Creditors, the ABL Collateral Agent or any of them to enforce any provision of this Agreement or any ABL Loan Document shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of the Borrower or any other Grantor or by any act or failure to act by any ABL Creditor or the ABL Collateral Agent, or by any noncompliance by any Person with the terms, provisions and covenants of this Agreement, any of the ABL Loan Documents or any of the Term Loan Documents, regardless of any knowledge thereof which the ABL Collateral Agent or the ABL Creditors, or any of them, may have or be otherwise charged with.

(ii) No right of the Term Creditors, the Term Collateral Agent or any of them to enforce any provision of this Agreement or any Term Loan Document (subject to the provisions of this Agreement) shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of the Borrower or any other Grantor or by any act or failure to act by any Term Creditor or the Term Collateral Agent, or by any noncompliance by any Person with the terms, provisions and covenants of this Agreement, any of the Term Loan Documents or any ABL Loan Document, regardless of any knowledge thereof which the Term Collateral Agent or the Term Creditors, or any of them, may have or be otherwise charged with.

(b) Acts by ABL Creditors. Without in any way limiting the generality of Section 7.3(a) (but subject to the rights of the Borrower and the other Grantors under the ABL Loan Documents), the ABL Creditors, the ABL Collateral Agent and any of them may, at any time and from time to time in accordance with the ABL Loan Documents, this Agreement (including Section 5.3) and/or applicable law, without the consent of, or notice to, the Term Collateral Agent or any Term Creditor without incurring any liabilities to the Term Collateral Agent or any other Term Creditor and without impairing or releasing the Lien priorities and other benefits provided in this Agreement (even if any right of subrogation or other right or remedy of the Term Collateral Agent or any Term Creditor is affected, impaired or extinguished thereby) do any one or more of the following, but subject to the limitations set forth in this Agreement:

(i) make loans and advances to any Grantor or issue, guaranty or obtain letters of credit for account of any Grantor or otherwise extend credit to any Grantor, in any amount and on any terms, whether pursuant to a commitment or as a

discretionary advance and whether or not any default or event of default or failure of condition is then continuing;

(ii) change the manner, place or terms of payment or change or extend the time of payment of, or amend, renew, exchange, increase or alter, the terms of any of the ABL Obligations or any Lien on any ABL Priority Collateral or guaranty thereof or any liability of the Borrower or any other Grantor, or any liability incurred directly or indirectly in respect thereof (including any increase in or extension of the ABL Obligations, subject to Section 5.3) or otherwise amend, renew, exchange, extend, modify or supplement in any manner any Liens with respect to the ABL Priority Collateral held by the ABL Collateral Agent or any of the ABL Creditors, the ABL Obligations or any of the ABL Loan Documents;

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

(iv) settle or compromise any ABL Obligation or any other liability of the Borrower or any other Grantor or any security therefor or any liability incurred directly or indirectly in respect thereof and apply any sums by whomsoever paid and however realized to any liability (including the ABL Obligations) in any manner or order;

(v) exercise or delay in or refrain from exercising any right or remedy against the Borrower or any other Grantor or any other Person or with respect to any security, elect any remedy and otherwise deal freely with the Borrower, any other Grantor or any ABL Priority Collateral and any security and any guarantor or any liability of the Borrower or any other Grantor to the ABL Creditors or any liability incurred directly or indirectly in respect thereof; and

(vi) release or discharge any ABL Obligation or any guaranty thereof or any agreement or obligation of any Grantor or any other Person with respect thereto.

(c) Waivers by the Term Collateral Agent. The Term Collateral Agent, on behalf of itself and the Term Creditors, and each other Term Creditor (by its acceptance of the benefits of the Term Loan Documents), agrees not to assert and hereby waives, to the fullest extent permitted by law, any right to demand, request, plead or otherwise assert or otherwise claim the benefit of, any marshalling, appraisal, valuation or other similar right that may otherwise be available under applicable law with respect to the ABL Priority Collateral or any other similar rights a junior secured creditor may have under applicable law.

(d) Acts by Term Creditors. Without in any way limiting the generality of Section 7.3(a) (but subject to the rights of the Borrower and the other Grantors under the Term Loan Documents), the Term Creditors, the Term Collateral Agent and any of them may, at any time and from time to time in accordance with the Term Loan Documents, this Agreement

(including Section 5.3) and/or applicable law, without the consent of, or notice to, the ABL Collateral Agent or any ABL Creditor without incurring any liabilities to the ABL Collateral Agent or any ABL Creditor and without impairing or releasing the Lien priorities and other benefits provided in this Agreement (even if any right of subrogation or other right or remedy of the ABL Collateral Agent or any ABL Creditor with respect to the Term Priority Collateral is affected, impaired or extinguished thereby), do any one or more of the following, but subject to the limitations set forth in this Agreement:

(i) make loans and advances to any Grantor or issue, guaranty or obtain letters of credit for account of any Grantor or otherwise extend credit to any Grantor, in any amount and on any terms, whether pursuant to a commitment or as a discretionary advance and whether or not any default or event of default or failure of condition is then continuing;

(ii) change the manner, place or terms of payment or change or extend the time of payment of, or amend, renew, exchange, increase or alter, the terms of any of the Term Obligations or any Lien on any Term Priority Collateral or guaranty thereof or any liability of the Borrower or any other Grantor, or any liability incurred directly or indirectly in respect thereof (including any increase in or extension of the Term Obligations, subject to Section 5.3) or, subject to the terms hereof (including Section 5.3), otherwise amend, renew, exchange, extend, modify or supplement in any manner any Liens held by the Term Collateral Agent or any of the Term Creditors, the Term Obligations or any of the Term Loan Documents;

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

(iv) settle or compromise any Term Obligation or any other liability of the Borrower or any other Grantor or any security therefor or any liability incurred directly or indirectly in respect thereof and apply any sums by whomsoever paid and however realized to any liability (including the Term Obligations) in any manner or order;

(v) except or otherwise restricted by the Agreement, including Section 5.3 and 5.4, and by applicable law, exercise or delay in or refrain from exercising any right or remedy against the Borrower or any other Grantor or any other Person or with respect to any security, elect any remedy and otherwise deal freely with the Borrower, any other Grantor or any Term Priority Collateral and any security and any guarantor or any liability of the Borrower or any other Grantor to the Term Creditors or any liability incurred directly or indirectly in respect thereof; and

(vi) release or discharge any Term Obligation or any guaranty thereof or any agreement or obligation of any Grantor or any other Person with respect thereto.

(e) Waivers by the ABL Collateral Agent. The ABL Collateral Agent, on behalf of itself and the ABL Creditors, and each other ABL Creditor (by its acceptance of the benefits of the ABL Loan Documents), agrees not to assert and hereby waives, to the fullest extent permitted by law, any right to demand, request, plead or otherwise assert or otherwise claim the benefit of, any marshalling, appraisal, valuation or other similar right that may otherwise be available under applicable law with respect to the Term Priority Collateral or any other similar rights a junior secured creditor may have under applicable law.

SECTION 7.4 Waiver of Liability; Indemnity. (a) ABL Priority Collateral. With respect to the ABL Priority Collateral, the Term Collateral Agent, on behalf of itself and the Term Creditors, and each other Term Creditor (by its acceptance of the benefits of the Term Loan Documents) each agree that the ABL Creditors and the ABL Collateral Agent shall have no liability to any of the Term Collateral Agent or any Term Creditors; and the Term Collateral Agent, on behalf of itself and the Term Creditors; and each other Term Creditor (by its acceptance of the benefits of the Term Loan Documents), each hereby waive any claim against any ABL Creditor (or the ABL Collateral Agent), arising out of any and all actions which the ABL Creditors or the ABL Collateral Agent may take or permit or omit to take with respect to: (i) the ABL Loan Documents (including, without limitation, any failure to perfect or obtain perfected security interests in the ABL Priority Collateral), (ii) the collection of the ABL Obligations or (iii) the foreclosure upon, or sale, liquidation or other disposition of, any ABL Priority Collateral. The Term Collateral Agent, on behalf of itself and the Term

Creditors and each other Term Creditor (by its acceptance of the benefits of the Term Loan Documents), each agree that the ABL Creditors and the ABL Collateral Agent have no duty, express or implied, fiduciary or otherwise, to any of them in respect of the maintenance or preservation of the ABL Priority Collateral, the ABL Obligations or otherwise. Neither the ABL Collateral Agent nor any other ABL Creditor nor any of their respective directors, officers, employees or agents will be liable for failure to demand, collect or realize upon any of the ABL Priority Collateral or for any delay in doing so, or will be under any obligation to sell or otherwise dispose of any ABL Priority Collateral upon the request of any other Grantor or upon the request of the Term Collateral Agent, any other holder of Term Obligations or any other Person or to take any other action whatsoever with regard to the ABL Priority Collateral or any part thereof. Without limiting the foregoing, the Term Collateral Agent, on behalf of itself and the Term Creditors, and each Term Creditor (by its acceptance of the benefits of the Term Loan Documents), each agree that neither the ABL Collateral Agent nor any other ABL Creditor (in directing the Collateral Agent to take any action with respect to the ABL Priority Collateral) shall have any duty or obligation to realize first upon any type of ABL Priority Collateral or to sell, dispose of or otherwise liquidate all or any portion of the ABL Priority Collateral in any manner, including as a result of the application of the principles of marshaling or otherwise, that would maximize the return to any class of Creditors holding Obligations of any type (whether ABL Obligations or Term Obligations), notwithstanding that the order and timing of any such realization, sale, disposition or liquidation may affect the amount of proceeds actually received by such class of Creditors from such realization, sale, disposition or liquidation.

(b) Term Priority Collateral. With respect to the Term Priority Collateral, the ABL Collateral Agent, on behalf of itself and the ABL Creditors, and each other ABL Creditor (by its acceptance of the benefits of the ABL Loan Documents), each agree that the Term Creditors and the Term Collateral Agent shall have no liability to the ABL Collateral Agent or

any ABL Creditors; and each other ABL Creditor (by its acceptance of the benefits of the ABL Loan Documents) each hereby waive any claim against any Term Creditor (or the Term Collateral Agent), arising out of any and all actions which the Term Creditors or the Term Collateral Agent may take or permit or omit to take with respect to: (i) the Term Loan Documents (including, without limitation, any failure to perfect or obtain perfected security interests in the Term Collateral), (ii) the collection of the Term Obligations or (iii) the foreclosure upon, or sale, liquidation or other disposition of, any Term Priority Collateral. The ABL Collateral Agent, on behalf of itself and the ABL Creditors, and each other ABL Creditor (by its acceptance of the benefits of the ABL Loan Documents), each agree that the Term Creditors and the Term Collateral Agent have no duty, express or implied, fiduciary or otherwise, to any of them in respect of the maintenance or preservation of the Term Priority Collateral, the Term Obligations or otherwise. Neither the Term Collateral Agent nor any other Term Creditor nor any of their respective directors, officers, employees or agents will be liable for failure to demand, collect or realize upon any of the Term Priority Collateral or for any delay in doing so, or will be under any obligation to sell or otherwise dispose of any Term Priority Collateral upon the request of any other Grantor or upon the request of the ABL Collateral Agent, any other holder of ABL Obligations or any other Person or to take any other action whatsoever with regard to the Term Priority Collateral or any part thereof. Without limiting the foregoing, the ABL Collateral Agent, on behalf of itself and the ABL Creditors, and each ABL Creditor (by its acceptance of the benefits of the ABL Loan Documents), each agree that neither the Term Collateral Agent nor any other Term Creditor (in directing the Collateral Agent to take any action with respect to the Term Priority Collateral) shall have any duty or obligation to realize first upon any type of Term Priority Collateral or to sell, dispose of or otherwise liquidate all or any portion of the Term Priority Collateral in any manner, including as a result of the application of the principles of marshaling or otherwise, that would maximize the return to any class of Creditors holding Obligations of any type (whether Term Obligations or ABL Obligations), notwithstanding that the order and timing of any such realization, sale, disposition or liquidation may affect the amount of proceeds actually received by such class of Creditors from such realization, sale, disposition or liquidation.

(c) Collateral Agent. With respect to its share of the Obligations, any Collateral Agent which is independently a Creditor shall have and may exercise the same rights and powers hereunder as, and shall be subject to the same obligations and liabilities as and to the extent set forth herein for, any other Creditor, all as if such Collateral Agent were not a Collateral Agent. The term "Creditors" or any similar term shall, unless the context clearly otherwise indicates, include any Collateral Agent in its individual capacity as a Creditor. Each Collateral Agent and its affiliates may lend money to, and generally engage in any kind of business with, the Grantors or any of their Affiliates as if such Collateral Agent were not acting as a Collateral Agent and without any duty to account therefor to any other Creditor.

SECTION 7.5 Obligations Unconditional. All rights, interests, agreements and obligations of the ABL Collateral Agent and the ABL Creditors and the Term Collateral Agent and the Term Creditors, respectively, hereunder (including the Lien priorities established hereby) shall remain in full force and effect irrespective of:

(a) any lack of validity or enforceability of any ABL Loan Document or any Term Loan Document;

(b) any change in the time, manner or place of payment of, or in any other terms of, all or any of the ABL Obligations or Term Obligations, or any amendment or waiver or other modification, including any increase in the amount thereof, whether by course of conduct or otherwise, of the terms of any ABL Loan Document or any Term Loan Document;

(c) any exchange of any security interest in any Collateral or any other collateral, or any amendment, waiver or other modification, whether in writing or by course of conduct or otherwise, of all or any of the ABL Obligations or Term Obligations or any guarantee thereof;

(d) the commencement of any Insolvency or Liquidation Proceeding in respect of the Borrower or any other Grantor, or

(e) any other circumstances which otherwise might constitute a defense available to, or a discharge of, the Borrower or any other Grantor in respect of any of the ABL Obligations, or of the Term Collateral Agent or any Term Creditor in respect of this Agreement.

ARTICLE VIII

MISCELLANEOUS

SECTION 8.1 Conflicts. In the event of any conflict between the provisions of this Agreement and the provisions of the ABL Loan Documents or the Term Loan Documents, as between the parties other than the Grantors the provisions of this Agreement shall govern and control.

SECTION 8.2 Effectiveness; Continuing Nature of this Agreement; Severability. This Agreement shall become effective when executed and delivered by the parties hereto. This is a continuing agreement of lien subordination and (i) the ABL Creditors may, at any time and without notice to the Term Collateral Agent or any Term Creditor and (ii) the Term Creditors may, at any time and without notice to the ABL Collateral Agent or any ABL Creditor, in each case, continue to extend credit and other financial accommodations and lend monies to or for the benefit of the Borrower or any Grantor constituting ABL Obligations (in the case of the ABL Creditors) or Term Obligations (in the case of the Term Creditors) in reliance hereof. The ABL Collateral Agent, on behalf of itself and the ABL Creditors, and each other ABL Creditor (by its acceptance of the benefits of the ABL Documents) and the Term Collateral Agent, on behalf of itself and the Term Creditors, and each other Term Creditor (by its acceptance of the benefits of the Term Loan Document), hereby waives any right it may have under applicable law to revoke this Agreement or any of the provisions of this Agreement. The terms of this Agreement shall survive, and shall continue in full force and effect, in any Insolvency or Liquidation Proceeding. Without limiting the generality of the foregoing, this Agreement is intended to constitute and shall be deemed to constitute a "subordination agreement" within the meaning of Section 510(a) of the Bankruptcy Code and is intended to be and shall be interpreted to be enforceable to the maximum extent permitted pursuant to applicable nonbankruptcy law. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions hereof, and any such prohibition or unenforceability in

any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. All references to the Borrower or any other Grantor shall include the Borrower or such Grantor as debtor and debtor-in-possession and any receiver or trustee for the Borrower or any other Grantor (as the case may be) in any Insolvency or Liquidation Proceeding. This Agreement shall terminate and be of no further force and effect, (i) with respect to the ABL Collateral Agent, the ABL Creditors and the ABL Obligations, upon the Discharge of ABL Obligations (in a manner which is not in contravention of the terms of this Agreement), subject to the rights of the ABL Creditors and the Term Creditors under Section 6.5, and (ii) with respect to the Term Collateral Agent, the Term Creditors and the Term Obligations, the date of the Discharge of Term Obligations, subject to the rights of the Term Creditors and the ABL Creditors under Section 6.5.

SECTION 8.3 Amendments; Waivers. No amendment, modification or waiver of any of the provisions of this Agreement by the ABL Collateral Agent or the Term Collateral Agent shall be made unless the same shall be in writing signed on behalf of each party hereto; provided that

(a) the ABL Collateral Agent (at the direction of the Required ABL Creditors) may, without the written consent of any other Creditor, agree to modifications of this Agreement for the purpose of securing additional extensions of credit (including pursuant to the ABL Credit Agreement or any Refinancing or extension thereof) and adding new creditors as "ABL Creditors" and "Creditors" hereunder, so long as such extensions (and resulting additions) do not otherwise give rise to a violation of the express terms of the ABL Credit Agreement and, without the prior written consent of the Term Collateral Agent, Section 5.3(a),

(b) the Term Collateral Agent (at the direction of the Required Term Creditors) may, without the written consent of any other Creditor, agree to modifications of this Agreement for the purpose of securing additional extensions of credit (including pursuant to the Term Credit Agreement or any Refinancing or extension thereof) and adding new creditors as "Term Creditors" and "Creditors" hereunder, so long as such extensions (and resulting additions) do not otherwise give rise to a violation of the express terms of the Term Credit Agreement and, without the prior written consent of the ABL Collateral Agent, Section 5.3(b),

(c) additional Grantors may be added as parties hereto in accordance with the provisions of Section 8.18 of this Agreement.

Each waiver of the terms of this Agreement, if any, shall be a waiver only with respect to the specific instance involved and shall not impair the rights of the parties making such waiver or the obligations of the other parties to such party in any other respect or at any other time. Notwithstanding the foregoing, no Grantor shall have any right to consent to or approve any amendment, modification or waiver of any provision of this Agreement except to the extent its rights, interests, liabilities or privileges are directly affected or the provisions of any of the Documents are modified by the effect of any such amendment, modification or waiver. One of the Collateral Agents shall provide the Borrower with written notice of each amendment, modification and waiver, with a true and correct copy thereof.

SECTION 8.4 Information Concerning Financial Condition of the Grantors and their Subsidiaries. The ABL Collateral Agent and the ABL Creditors and the Term Collateral Agent and the Term Creditors, shall each be responsible for keeping themselves informed of (a) the financial condition of each Grantor and their respective Subsidiaries and all endorsers and/or guarantors of the ABL Obligations or the Term Obligations and (b) all other circumstances bearing upon the risk of nonpayment of the ABL Obligations or the Term Obligations. Except as otherwise set forth herein, none of the Collateral Agents nor any Creditor shall have any duty to advise any of the other Collateral Agents, or any other Creditor, of information known to it or them regarding such condition or any such circumstances or otherwise. With respect to the ABL Priority Collateral, in the event the ABL Collateral Agent or any of the ABL Creditors, in its or their sole discretion, undertakes at any time or from time to time to provide any such information to the Term Collateral Agent or any Term Creditor, it or they shall be under no obligation (w) to make, and the ABL Collateral Agent and the ABL Creditors shall not make, any express or implied representation or warranty, including with respect to the accuracy, completeness, truthfulness or validity of any such information so provided, (x) to provide any additional information or to provide any such information on any subsequent occasion, (y) to undertake any investigation or (z) to disclose any information which, pursuant to accepted or reasonable commercial finance practices, such party wishes to maintain confidential or is otherwise required to maintain confidential. With respect to the Term Priority Collateral, in the event the Term Collateral Agent or any of the Term Creditors, in its or their sole discretion, undertakes at any time or from time to time to provide any such information to the ABL Collateral Agent or any ABL Creditor, it or they shall be under no obligation (w) to make, and the Term Collateral Agent and the Term Creditors shall not make, any express or implied representation or warranty, including with respect to the accuracy, completeness, truthfulness or validity of any such information so provided, (x) to provide any additional information or to provide any such information on any subsequent occasion, (y) to undertake any investigation or (z) to disclose any information which, pursuant to accepted or reasonable commercial finance practices, such party wishes to maintain confidential or is otherwise required to maintain confidential.

SECTION 8.5 Subrogation. Subject to the Discharge of ABL Obligations, with respect to the value of any payments or distributions in cash, property or other assets that any of the Term Creditors or the Term Collateral Agent pay over to the ABL Collateral Agent or ABL Creditors under the terms of this Agreement, the respective paying Creditors shall be subrogated to the rights of the payee Creditors; provided that, the Term Collateral Agent, on behalf of itself and the Term Creditors, and each other Term Creditor (by its acceptance of the benefits of the Term Loan Documents), hereby agree not to assert or enforce all such rights of subrogation it may acquire as a result of any payment hereunder until the Discharge of ABL Obligations has occurred. The Borrower acknowledges and agrees that the value of any payments or distributions in cash, property or other assets received by any of the Term Collateral Agent or the Term Creditors and paid over to the ABL Collateral Agent or the ABL Creditors pursuant to, and applied in accordance with this Agreement, shall not relieve or reduce any of the Obligations owed by the Borrower under the Term Loan Documents.

(b) Subject to the Discharge of Term Obligations, with respect to the value of any payments or distributions in cash, property or other assets that any of the ABL Collateral Agent or the ABL Creditors pay over to the Term Collateral Agent or Term Creditors under the

terms of this Agreement, the respective paying Creditors shall be subrogated to the rights of the payee Creditors;provided that, the Term Collateral Agent, on behalf of itself and the Term Creditors, and each other Term Creditor (by its acceptance of the benefits of the Term Credit Documents), and the ABL Collateral Agent, on behalf of itself and the ABL Creditors, and each other ABL Creditor (by its acceptance of the benefits of the ABL Credit Documents), hereby agree not to assert or enforce all such rights of subrogation it may acquire as a result of any payment hereunder until, the Discharge of Term Obligations has occurred. The Borrower acknowledges and agrees that the value of any payments or distributions in cash, property or other assets received by the ABL Collateral Agent or the ABL Creditors and paid over to the Term Collateral Agent or the Term Creditors pursuant to, and applied in accordance with this Agreement, shall not relieve or reduce any of the Obligations owed by the Borrower under the ABL Loan Documents.

SECTION 8.6 Reserved.

SECTION 8.7 SUBMISSION TO JURISDICTION; WAIVERS. (a) THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMIT TO THE NONEXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN THE BOROUGH OF MANHATTAN, CITY OF NEW YORK AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR FOR RECOGNITION OR ENFORCEMENT

OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

(b) THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION WHICH EACH MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT IN ANY COURT REFERRED TO IN SECTION 8.7(a). EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(c) EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT,

TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 8.7.

SECTION 8.8 Notices. All notices to the ABL Creditors or the Term Creditors permitted or required under this Agreement may be sent, respectively, to the ABL Collateral Agent or the Term Collateral Agent. Unless otherwise specifically provided herein, any notice or other communication herein required or permitted to be given shall be in writing and may be personally served, electronically mailed or sent by courier service or U.S. mail and shall be deemed to have been given when delivered in person or by courier service, upon receipt of electronic mail or four Business Days after deposit in the U.S. mail (registered or certified, with postage prepaid and properly addressed). For the purposes hereof, the addresses of the parties hereto shall be as set forth below each party's name on the signature pages hereto, or, as to each party, at such other address as may be designated by such party in a written notice to all of the other parties.

SECTION 8.9 Further Assurances. Each of (i) the ABL Collateral Agent, on behalf of itself and the ABL Creditors, (ii) the Term Collateral Agent, on behalf of itself and the Term Creditors and (iii) the Borrower, agree that each of them shall take such further action and shall execute and deliver such additional documents and instruments (in recordable form, if requested) as any of the ABL Collateral Agent and/or the Term Collateral Agent may reasonably request to effectuate the terms of and the lien priorities contemplated by this Agreement. Each ABL Creditor, by its acceptance of the benefits of the ABL Loan Documents, agrees to be bound by the agreements herein made by it and the ABL Collateral Agent, on its behalf. Each Term Creditor, by its acceptance of the benefits of the Term Loan Documents, agrees to be bound by the agreements herein made by it and the Term Collateral Agent, on its behalf.

SECTION 8.10 APPLICABLE LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK INCLUDING GENERAL OBLIGATIONS LAW 5-1401.

SECTION 8.11 Binding on Successors and Assigns. This Agreement shall be binding upon the ABL Collateral Agent, the ABL Creditors, the Term Collateral Agent, the Term Creditors and their respective successors and assigns, including without limitation any successor or assign to all or a portion of the duties of any Collateral Agent (or any sub-agent or sub-collateral agent appointed by it).

SECTION 8.12 Specific Performance. Each of the ABL Collateral Agent and the Term Collateral Agent may demand specific performance of this Agreement. Each of the ABL Collateral Agent, on behalf of itself and the ABL Creditors and the Term Collateral Agent, on behalf of itself and the Term Creditors, hereby irrevocably waives any defense based on the

adequacy of a remedy at law and any other defense which might be asserted to bar the remedy of specific performance in any action which may be brought by the ABL Collateral Agent or the Term Collateral Agent, as the case may be.

SECTION 8.13 Headings. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose or be given any substantive effect.

SECTION 8.14 Counterparts. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement or any document or instrument delivered in connection herewith by telecopy shall be effective as delivery of a manually executed counterpart of this Agreement or such other document or instrument, as applicable.

SECTION 8.15 Authorization. By its signature, each Person executing this Agreement on behalf of a party hereto represents and warrants to the other parties hereto that it is duly authorized to execute this Agreement. Each ABL Creditor, by its acceptance of the benefits of the ABL Loan Documents and each Term Creditor, by its acceptance of the benefits of the Term Loan Documents, agrees to be bound by the agreements made herein.

SECTION 8.16 No Third Party Beneficiaries; Effect of Agreement. This Agreement and the rights and benefits hereof shall inure to the benefit of each of the parties hereto and its respective successors and assigns and shall inure to the benefit of each of the ABL Creditors and the Term Creditors. No other Person shall have or be entitled to assert rights or benefits hereunder. Nothing in this Agreement shall impair, as between the Borrower and the ABL Collateral Agent and the ABL Creditors or the Borrower and the Term Collateral Agent and the Term Creditors, the obligations of the Borrower to pay principal, interest, fees and other amounts as provided in the ABL Loan Documents and the Term Loan Documents, respectively.

SECTION 8.17 Provisions Solely to Define Relative Rights. The provisions of this Agreement are and are intended solely for the purpose of defining the relative rights of the ABL Creditors and the ABL Collateral Agent and the Term Creditors and the Term Collateral Agent. None of the Borrower, any other Grantor or any other creditor thereof shall have any rights hereunder. Nothing in this Agreement is intended to or shall impair the obligations of the Borrower or any other Grantor, which are absolute and unconditional, to pay the ABL Obligations and the Term Obligations as and when the same shall become due and payable in accordance with their terms.

SECTION 8.18 Grantors; Additional Grantors. It is understood and agreed that Holdings, the Borrower and each Subsidiary Guarantor on the date of this Agreement shall constitute the original Grantors party hereto. The original Grantors hereby covenant and agree to cause each Subsidiary of the Borrower which becomes a Subsidiary Guarantor after the date hereof to contemporaneously become a party hereto (as a Grantor) by executing and delivering a counterpart hereof to the ABL Collateral Agent and the Term Collateral Agent or by executing and delivering an assumption agreement in form and substance reasonably satisfactory to the

ABL Collateral Agent and the Term Collateral Agent. The parties hereto further agree that, notwithstanding any failure to take the actions required by the immediately preceding sentence, each Person which becomes a Subsidiary Guarantor at any time (and any security granted by any such Person) shall be subject to the provisions hereof as fully as if same constituted a Grantor party hereto and had complied with the requirements of the immediately preceding sentence.

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

CREDIT SUISSE CAYMAN ISLANDS BRANCH in its capacity as ABL Administrative Agent

By: _____
Name:
Title:

By: _____
Name:
Title:

[*Signature Page to Intercreditor Agreement*]

Notice Address

Eleven Madison Avenue, OMA-2
New York, NY 10010
Attention: Loan Services Manager
Telecopy: 212-538-3380
Telephone: 212-325-8304

with a copy to:

Skadden, Arps, Slate, Meagher & Flom LLP
300 S. Grand Ave, Suite 3400
Attention: David Kitchen
Telecopy: (213) 687-5600
Telephone: (213) 687-5000
Email: dkitchen@skadden.com

[*Signature Page to Intercreditor Agreement*]

JPMORGAN CHASE BANK, N.A., in its capacity as ABL Collateral Agent

By: _____
Name:
Title:

[*Signature Page to Intercreditor Agreement*]

Notice Address

Michael A. Hintz
Account Executive – ABL
111 East Wisconsin Ave., Floor 15
Milwaukee, WI 53202-4815

Telecopy: 414-977-6652

Telephone: 414-977-6666

with a copy to:

Skadden, Arps, Slate, Meagher & Flom LLP
333 West Wacker Drive
Suite 2100
Chicago, IL 60606

Attn: Seth E. Jacobson

Telecopy: 312-407-0700
Telephone: 312-407-0411

[*Signature Page to Intercreditor Agreement*]

CREDIT SUISSE, CAYMAN ISLANDS BRANCH, in its capacities as Term Administrative Agent and Term Collateral Agent

By: _____
Name
Title:

By: _____
Name
Title:

[*Signature Page to Intercreditor Agreement*]

Notice Address

Eleven Madison Avenue, OMA-2
New York, NY 10010
Attention: Loan Services Manager
Telecopy: 212-538-3380
Telephone: 212-325-8304

with a copy to:

Skadden, Arps, Slate, Meagher & Flom LLP
300 S. Grand Ave, Suite 3400
Attention: David Kitchen
Telecopy: (213) 687-5600
Telephone: (213) 687-5000
Email: dkitchen@skadden.com

[*Signature Page to Intercreditor Agreement*]

Notice Address:

7777 North 73rd Street
Milwaukee, WI 53223
Attention: Chief Executive Officer and President
Fax: 414-354-8448

with a copy to:

Aurora Capital Group
10877 Wilshire Boulevard
Suite 2100
Los Angeles, CA 90024
Attention: Secretary
Fax: 310-824-2791

DOUGLAS DYNAMICS HOLDINGS, INC.

By: _____
Name
Title:

[*Signature Page to Intercreditor Agreement*]

Notice Address:

7777 North 73rd Street
Milwaukee, WI 53223
Attention: Chief Executive Officer and President
Fax: 414-354-8448

with a copy to:

DOUGLAS DYNAMICS, L.L.C.

By: _____
Name
Title:

Aurora Capital Group
10877 Wilshire Boulevard
Suite 2100
Los Angeles, CA 90024
Attention: Secretary
Fax: 310-824-2791

[*Signature Page to Intercreditor Agreement*]

Notice Address:

7777 North 73rd Street
Milwaukee, WI 53223
Attention: Chief Executive Officer and President
Fax: 414-354-8448

DOUGLAS DYNAMICS FINANCE COMPANY

By: _____
Name
Title:

with a copy to:

Aurora Capital Group
10877 Wilshire Boulevard
Suite 2100
Los Angeles, CA 90024
Attention: Secretary
Fax: 310-824-2791

[*Signature Page to Intercreditor Agreement*]

Notice Address:

7777 North 73rd Street
Milwaukee, WI 53223
Attention: Chief Executive Officer and President
Fax: 414-354-8448

FISHER, LLC

By: _____
Name
Title:

with a copy to:

Aurora Capital Group
10877 Wilshire Boulevard
Suite 2100
Los Angeles, CA 90024
Attention: Secretary
Fax: 310-824-2791

[*Signature Page to Intercreditor Agreement*]

EXHIBIT O

FIXED CHARGE COVERAGE COMPLIANCE CERTIFICATE

All calculations under this certificate shall be for the 12 month period preceding the date of determination, which shall be the last day of any month.

I.	**Consolidated Interest Expense**	
(a)	total interest expense (including that portion attributable to Capital Leases in accordance with GAAP and capitalized interest) payable in cash of the Company and its Subsidiaries on a consolidated basis with respect to all outstanding Indebtedness of the Company and its Subsidiaries, including all commissions, discounts and other fees and charges owed with respect to letters of credit and net costs under Interest Rate Agreements: (1)	$
(b)	the aggregate amount of interest income of the Company and its Subsidiaries during such period paid in cash	$
Consolidated Interest Expense (Item (a) minus Item (b))		$
II.	**Consolidated Adjusted EBITDA**	
(a)	Consolidated Net Income:	$
(i)	Consolidated Interest Expense and non-Cash interest expense	$
(ii)	provisions for taxes based on income	$
(iii)	total depreciation expense	$
(iv)	total amortization expense (2)	$

	(v)	non-cash impairment charges	$
	(vi)	non-cash expenses resulting from the grant of stock and stock options and other compensation to management personnel of the Company and its Subsidiaries pursuant to a written incentive plan or agreement	$
	(vii)	other non-Cash items that are unusual or otherwise non-recurring items	$
	(viii)	expenses for fees under the Management Services Agreement	$
	(ix)	any extraordinary losses and non-recurring charges during any period(3)	$
	(x)	restructuring charges or reserves (4)	$

(1) Excluding any amounts referred to in Section 2.10(d) of the Credit Agreement payable on or before the Closing Date and amounts with respect to the termination of Interest Rate Agreements entered into within 90 days of the Closing Date.

(2) Including amortization of goodwill, other intangibles, and financing fees and expenses.

(3) Including severance, relocation costs, one-time compensation charges and losses or charges associated with Interest Rate Agreements.

(4) Including costs related to closure of Facilities.

	(xi)	any transaction costs incurred in connection with the issuance of Securities or any refinancing transaction, in each case whether or not such transaction is consummated	$
	(xii)	any fees and expenses related to any Permitted Acquisitions	$
	(xiii)	the Financial Performance Covenant Cure Amount	$
(b)	Sum of Items (i) thru (xiii)		$
	(i)	non-Cash items increasing Consolidated Net Income for such period that are unusual or otherwise non-recurring items	$
	(ii)	cash payments made during such period reducing reserves or liabilities for accruals made in prior periods but only to the extent such reserves or accruals were added back to "Consolidated Adjusted EBITDA" in a prior period pursuant to clauses (vi) or (vii) above	$
	(iii)	Restricted Payments made during such period to Holdings pursuant to Section 6.5(c)(i)	$
(c)	Sum of Items (i) thru (iii)		$
(d)	Sum of Item (a) and (b)(5)		$
Consolidated Adjusted EBITDA (Item (d) minus Item (c)(6)):			$
III.	**Consolidated Fixed Charges**		
(a)	Consolidated Interest Expense		$
(b)	scheduled payments of principal on Consolidated Total Debt		$
(c)	Consolidated Capital Expenditures(7)		$
(d)	the portion of taxes based on income actually paid in cash during such period by the Company or any of its Subsidiaries whether for such period or any other period		$
(e)	Restricted Payments permitted under Section 6.5(c)(iii) of the Credit Agreement and which are paid in cash during such period		$
Consolidated Fixed Charges (Sum of Items (a)-(e)(8))			$

(5) Without duplication to the extent deducted in the calculation of Consolidated Net Income for such period.

(6) Without duplication.

(7) The aggregate of all expenditures of the Company and its Subsidiaries during such period determined on a consolidated basis that, in accordance with GAAP, are or should be included in "purchase of property and equipment" or similar items reflected in the consolidated statement of cash flows of the Company and its Subsidiaries (other than those financed with secured Indebtedness permitted by Section 6.1 of the Credit Agreement or made or incurred pursuant to Section 6.8(b)(ii) of the Credit Agreement).

(8) Without duplication.

IV. Fixed Charge Coverage Ratio

(a)	Consolidated Adjusted EBITDA	$
(b)	Consolidated Fixed Charges	$
Fixed Charge Coverage Ratio (Item (a) divided by Item (b))		. :1.00

Schedule 4.1
(Organization and Capital Structure)

Full Legal Name	Type of Organization	Jurisdiction of Organization	Capital Structure
Douglas Dynamics Holdings, Inc.	corporation	Delaware	1,000,000 shares of Common Stock 1 share is designated Series B Preferred Stock and 1 share is designated Series C Preferred Stock
Douglas Dynamics, L.L.C.	limited liability company	Delaware	Percentage Interest of limited liability company units
Douglas Dynamics Finance Company	corporation	Delaware	1,000 shares of Common Stock
Fisher, LLC	limited liability company	Delaware	Percentage Interest of limited liability company units

Schedule 4.2
(Capital Stock and Ownership)
[as of May , 2007]

Entity	Capital Structure	Ownership
Douglas Dynamics Holdings, Inc.	1,000,000 shares of Common Stock; 606,656 shares issued and outstanding	Douglas Dynamics Holdings, LLC (50.19%) Ares Corporate Opportunities Fund, L.P. (32.97%) General Electric Pension Trust (15.25%) The remaining stockholders own 1.58% in the aggregate (with each owning less than 0.40% individually).
	1 share is designated Series B Preferred Stock; 1 share of Series B Preferred Stock issued and outstanding	Douglas Dynamics Holdings, LLC (100%)
	1 share is designated Series C Preferred Stock; 1 share of Series C Preferred Stock issued and outstanding	Ares Corporate Opportunities Fund, L.P. (100%)
Douglas Dynamics, L.L.C.	Percentage Interest of limited liability company units	Douglas Dynamics Holdings, Inc. (100%)
Douglas Dynamics Finance Company	1,000 shares of Common Stock	Douglas Dynamics, L.L.C. (100%)
Fisher, LLC	Percentage Interest of limited liability company units	Douglas Dynamics, L.L.C. (100%)

Existence of existing option, warrant, call, right, commitment or other like agreement:

Douglas Dynamics Holdings, Inc.

Grantees (as a group)	Number of Awards Granted
Douglas Management	58,215 options to acquire common stock 8,070 deferred stock units
Douglas Independent Directors	4,124 options to acquire common stock
Aurora Advisors	1,500 options to acquire common stock
Ares Advisors	857 options to acquire common stock

*Note: Approximately 7,800 options to acquire common stock have been reserved for members of Douglas management, but have not been allocated/issued.

Douglas Dynamics, L.L.C.

None.

Douglas Dynamics Finance Company

None.

Fisher, LLC

None.

Schedule 4.9
(Material Adverse Changes)

Douglas Dynamics Holdings, Inc.

None.

Douglas Dynamics, L.L.C.

None.

Douglas Dynamics Finance Company

None.

Fisher, LLC

None.

Schedule 4.11
(Adverse Proceedings)

Douglas Dynamics Holdings, Inc.

None.

Douglas Dynamics, L.L.C.

The inclusion of these items on this schedule is not an admission by the Borrower that these items represent a Material Adverse Effect or that such disclosure was required to be set forth as an exception to this representation.

Bjork, David (Case number MICV2005-01131, filed in Massachusetts Superior Court)

- This is a personal injury case with a date of loss of December 16, 2002. Amount of damages is unspecified, and the Company has not reserved any amount with respect to this matter.

D'Angelo, Amy (Case number 98-3281, filed in New York)

- This is a personal injury case with a date of loss of February 4, 1998. Plaintiff is seeking $10,000,000 in damages, and the Company has reserved $25,000 with respect to this matter.

Employment and labor-related claims are listed in Schedule 4.18.

Douglas Dynamics Finance Company

None.

Fisher, LLC

None

Schedule 4.13
(Real Estate Assets)

Douglas Dynamics Holdings, Inc.

None.

Douglas Dynamics, L.L.C.

4.13(i)

915 Riverview Drive
Johnson City, TN

7777 N. 73rd Street
Milwaukee, WI

50 Gordon Drive
Rockland, ME

4.13(ii)

None.

Douglas Dynamics Finance Company

None.

Fisher, LLC

None.

Schedule 4.14
(Environmental Matters)

Douglas Dynamics Holdings, Inc.

None.

Douglas Dynamics, L.L.C.

None.

Douglas Dynamics Finance Company

None.

Fisher, LLC

None.

Schedule 4.18
(Employee Matters)

Douglas Dynamics Holdings, Inc.

None.

Douglas Dynamics, L.L.C.

None.

Douglas Dynamics Finance Company

None.

Fisher, LLC

None.

Schedule 4.19
(Employee Benefit Plans)

Douglas Dynamics Holdings, Inc.

None.

Douglas Dynamics, L.L.C.

Retired/Former Employee Benefit Plans

Douglas Dynamics L.L.C. Insurance Coverage Policy for Retirees, as revised December 31, 2003.

Funding of Pension Plans

As of December 31, 2006, the present value of the aggregate benefit liabilities under the Douglas Dynamics LLC Salaried Pension Plan and the Douglas Dynamics LLC Pension Plan for Hourly Employees exceeded the aggregate current value of the assets under such plans by approximately $5.1 million.

Douglas Dynamics Finance Company

None.

Fisher, LLC

None.

Schedule 4.22
(Certain Existing Liens)

See Schedule 6.2.

Schedule 4.24
(Deposit Accounts)

Description	Bank Account Number	Loan Party	Depository Institution/ Contact Information
Main Operating Account, Concentration Account for all Controlled Disbursement Accounts, Sweep Account for Fisher and Western Lockbox		Douglas Dynamics, L.L.C.	
Accounts Payable Controlled Disbursement account for all DD locations		Douglas Dynamics, L.L.C.	
Flex Spending Claims Controlled Disbursement account for all DD locations		Douglas Dynamics, L.L.C.	
Medical Claims Controlled Disbursement account for all DD locations		Douglas Dynamics, L.L.C.	
Dental Claims Controlled Disbursement account for all DD locations		Douglas Dynamics, L.L.C.	
40l(k) account		Douglas Dynamics, L.L.C.	
Payroll Clearing-WI		Douglas Dynamics, L.L.C.	
general account		Douglas Dynamics Holdings Inc.	
general account		Douglas Dynamics Finance Company	

Description	Bank Account Number	Loan Party	Depository Institution/ Contact Information
Payroll Clearing-ME		Fisher, LLC	
Payroll Clearing- TN		Douglas Dynamics, L.L.C.	

Schedule 6.1(f)
(Certain Indebtedness)

None.

Schedule 6.2
(Permitted Liens)

Delaware Secretary of State searched on 04/24/07. Secured Party: Hyster Credit Company, P.O. Box 27248, Tempe, AZ 85285-7248. File no. 2197519, 07/23/2002. One Hyster Model S30XM, One Hyster Model H40XM Lift Truck together with all attachments and accessories.

Delaware Secretary of State searched on 04/24/07. Secured Party: Hyster Credit Company, P.O. Box 4366, Portland, OR 97208. File no. 2200036, 07/29/2002. One Hyster Model S30XM, One Hyster Model H40XM Lift Truck together with all attachments and accessories.

Delaware Secretary of State searched on 04/24/07. Secured Party: Bystronic Inc., 185 Commerce Drive, Hauppauge, NY, 11788. File no. 6046680, 01/27/2006. One BYSTAR 4020-2 (4400 Watt) Job No. 1803.

Schedule 6.7
(Certain Investments)

None.

Schedule 6.12
(Certain Affiliate Transactions)

All transactions, including payments, in respect of the Amended and Restated Joint Management Services Agreement dated as of April 12, 2004.

DOUGLAS DYNAMICS, INC.
2010 STOCK INCENTIVE PLAN

1. Purpose

The purpose of the Douglas Dynamics, Inc. 2010 Stock Incentive Plan (the "Plan") is to advance the interests of Douglas Dynamics, Inc. (the "Company") by stimulating the efforts of employees, officers, non-employee directors and other service providers, in each case who are selected to be participants, by heightening the desire of such persons to continue working toward and contributing to the success and progress of the Company. The Plan provides for the potential grant of Incentive and Nonqualified Stock Options, Stock Appreciation Rights, Restricted Stock and Restricted Stock Units, any of which may be performance-based, and for Incentive Bonuses, which may be paid in cash or stock or a combination thereof, as determined by the Administrator. Following the adoption of the Plan, no additional awards shall be granted under the Company's Amended and Restated 2004 Stock Incentive Plan.

2. Definitions

As used in the Plan, the following terms shall have the meanings set forth below:

(a) "Administrator" means the Administrator of the Plan in accordance with Section 18.

(b) "Affiliates" shall have the meaning ascribed in Rule 12b-2 promulgated under the Exchange Act.

(c) "Ares" means Ares Corporate Opportunities Fund, L.P., a Delaware limited partnership.

(d) "Aurora Entities" means Aurora Equity Partners II L.P., a Delaware limited partnership and Aurora Overseas Equity Partners II, L.P., a Cayman Islands exempt limited partnership

(e) "Award" means an Incentive Stock Option, Nonqualified Stock Option, Stock Appreciation Right, Restricted Stock, Restricted Stock Unit or Incentive Bonus granted to a Participant pursuant to the provisions of the Plan, any of which the Administrator may structure to qualify in whole or in part as a Performance Award.

(f) "Award Agreement" means a written agreement or other instrument as may be approved from time to time by the Administrator implementing the grant of each Award. An Agreement may be in the form of an agreement to be executed by both the Participant and the Company (or an authorized representative of the Company) or certificates, notices or similar instruments as approved by the Administrator.

(g) "Beneficial Owner," "Beneficial Ownership" and "Beneficially Owned" shall have the meaning ascribed in Rule 13d-3 under the Exchange Act.

(h) "Board" means the Board of Directors of the Company.

(i) "Cause" means (unless otherwise expressly provided in the Award Agreement or another contract, including an employment agreement):

(1) conviction or indictment of an individual or the entering of a plea of nolo contendere by the individual with respect to any felony, crime involving fraud or misrepresentation, or any other crime (whether or not such felony or crime is connected with his or her employment or service) the effect of which in the judgment of the Board is likely to affect, materially and adversely, the Company and/or any Company Affiliate;

(2) gross misconduct in connection with the performance of the individual's duties;

(3) demonstration of habitual negligence in the performance of the individual's duties; or

(4) fraud or dishonesty in connection with an individual's employment or service, or theft, misappropriation or embezzlement of the Company's and/or any Company Affiliate's funds or other property.

(j) "Change of Control" means (unless otherwise expressly provided in the Award Agreement or another contract, including an employment agreement) the occurrence of one or more of the following, whether accomplished directly or indirectly, or in one or a series of related transactions:

(1) Any Person, other than the Aurora Entities, Ares and their respective Affiliates, becomes the Beneficial Owner, directly or indirectly, of voting securities of the Company representing 50% or more of the combined voting power of the Company's then outstanding voting securities;

(2) During any period of two consecutive years, individuals who at the beginning of such period constituted the Board and any new director (other than a director whose initial assumption of office occurs as a result of either an actual or threatened election contest or other actual or threatened tender offer, solicitation of proxies or consents by or on behalf of a Person other than the Board) whose appointment, election, or nomination for election was approved by a vote of a majority of the directors then still in office who either were directors at the beginning of the period or whose appointment, election or nomination for election was previously so approved, cease for any reason to constitute a majority of the Board;

(3) A reorganization, merger, consolidation, recapitalization, tender offer, exchange offer or other extraordinary transaction involving the Company (a "Fundamental Transaction") becomes effective or is consummated, unless at least 50% of the outstanding voting securities of the surviving or resulting entity (including, without limitation, an entity ("Parent") which as a result of such transaction owns the Company or all or substantially all of the Company's assets either directly or through one or more subsidiaries) ("Resulting Entity") are, or are to be, Beneficially Owned, directly or

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indirectly, by all or substantially all of the Persons who were the Beneficial Owners of the outstanding voting securities of the Company immediately prior to such Fundamental Transaction in substantially the same proportions as their Beneficial Ownership, immediately prior to such Fundamental Transaction, of the outstanding voting securities of the Company;

(4) A sale, transfer or any other disposition (including, without limitation, by way of spin-off, distribution, complete liquidation or dissolution) of all or substantially all of the Company's business and/or assets (an "Asset Sale") to an unrelated third party (the "Transferee Entity") is consummated.

(k) "Code" means the Internal Revenue Code of 1986, as amended from time to time, and the rulings and regulations issues thereunder.

(l) "Common Stock" means the Company's common stock, par value $.01, subject to adjustment as provided in Section 12.

(m) "Company" means Douglas Dynamics, Inc., a Delaware corporation, and its successors. For purposes of this definition of Corporation, after the consummation of a Fundamental Transaction or an Asset Sale, the term "successor" shall include, without limitation, the Resulting Entity or Transferee Entity, respectively.

(n) "Company Affiliate" means any person or entity that is a subsidiary of, or controlled directly or indirectly by, Douglas Dynamics, Inc. For the purposes of this definition, "control" means the power to direct the management and policies of a person or entity, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise.

(o) "Disability," unless otherwise defined in a Participant's employment agreement with the Company (if any), means an individual's absence from, or material inability to perform his or her usual duties or any comparable duties for, the Company on a full-time basis for 90 consecutive business days or 120 business days in any period of 180 business days as a result of mental or physical illness or injury that is total and permanent, as reasonably determined by the Administrator and that is not susceptible to reasonable accommodation.

(p) "Exchange Act" means the Securities Exchange Act of 1934, as amended from time to time.

(q) "Fair Market Value" means, as of any given date, the closing sales price on such date during normal trading hours (or, if there are no reported sales on such date, on the last date prior to such date on which there were sales) of the Shares on the New York Stock Exchange Composite Tape or, if not listed on such exchange, on any other national securities exchange on which the Shares are listed or on NASDAQ, in any case, as reported in such source as the Administrator shall select. If there is no regular public trading market for such Common Shares, the Fair Market Value of the Shares shall be determined by the Administrator in good faith and in compliance with Section 409A of the Code.

(r) "Incentive Bonus" means a bonus opportunity awarded under Section 9 pursuant to which a Participant may become entitled to receive an amount based on satisfaction of such performance criteria as are specified in the Award Agreement.

(s) "Incentive Stock Option" means a stock option that is intended to qualify as an "incentive stock option" within the meaning of Section 422 of the Code.

(t) "Nonemployee Director" means each person who is, or is elected to be, a member of the Board and who is not an employee of the Company or any Subsidiary.

(u) "Nonqualified Stock Option" means a stock option that is not intended to qualify as an "incentive stock option" within the meaning of Section 422 of the Code.

(v) "Option" means an Incentive Stock Option and/or a Nonqualified Stock Option granted pursuant to Section 6 of the Plan.

(w) "Participant" means any individual described in Section 3 to whom Awards have been granted from time to time by the Administrator and any authorized transferee of such individual.

(x) "Performance Award" means an Award, the grant, issuance, retention, vesting or settlement of which is subject to satisfaction of one or more performance criteria established pursuant to Section 13.

(y) "Person" means an association, a corporation, an individual, a partnership, a trust or any other entity or organization, including a governmental entity and a "person" as that term is used under Section 13(d) or 14 (d) of the Exchange Act.

(z) "Plan" means the Douglas Dynamics, Inc. 2010 Stock Incentive Plan as set forth herein and as amended from time to time.

(aa) "Restricted Stock" means Shares granted pursuant to Section 8 of the Plan.

(bb) "Restricted Stock Unit" means an Award granted to a Participant pursuant to Section 8 pursuant to which Shares or cash in lieu thereof may be issued in the future.

(cc) "Share" means a share of the Common Stock, subject to adjustment as provided in Section 12.

(dd) "Stock Appreciation Right" means a right granted pursuant to Section 7 of the Plan that entitles the Participant to receive, in cash or Shares or a combination thereof, as determined by the Administrator, value equal to or otherwise based on the excess of (i) the Fair Market Value of a specified number of Shares at the time of exercise over (ii) the exercise price of the right, as established by the Administrator on the date of grant.

(ee) "Subsidiary" means any entity (other than the Company) in an unbroken chain of entities beginning with the Company where each of the entities in the unbroken chain other than the last entity owns stock or other equity possessing at least 50 percent or more of the total

combined voting power of all classes of stock or other equity in one of the other entities in the chain, and if specifically determined by the Administrator in the context other than with respect to Incentive Stock Options, may include an entity in which the Company has a significant ownership interest or that is directly or indirectly controlled by the Company.

(ff) "Termination of Employment" means ceasing to serve as an employee of the Company or any Subsidiary or, with respect to a Nonemployee Director or other service provider, ceasing to serve as such for the Company or any Subsidiary, except that with respect to all or any Awards held by a Participant (i) the Administrator may determine, subject to Section 6(c), that an approved leave of absence or approved employment on a less than full-time basis shall be considered a Termination of Employment, (ii) the Administrator may determine that a transition of employment to service with a partnership, joint venture or corporation not meeting the requirements of a Subsidiary in which the Company or a Subsidiary is a party is not considered a Termination of Employment, (iii) service as a member of the Board or other service provider shall constitute continued employment with respect to Awards granted to a Participant while he or she served as an employee and (iv) service as an employee of the Company or a Subsidiary shall constitute continued employment with respect to Awards granted to a Participant while he or she served as a member of the Board or other service provider. The Administrator shall determine whether any corporate transaction, such as a sale or spin-off of a division or subsidiary that employs a Participant, shall be deemed to result in a Termination of Employment with the Company or any Subsidiary for purposes of any affected Participant's Awards, and the Administrator's decision shall be final and binding.

3. Eligibility

Any person who is a current or prospective officer or employee of the Company or of any Subsidiary shall be eligible for selection by the Administrator for the grant of Awards hereunder. In addition, Nonemployee Directors and any other service providers who have been retained to provide consulting, advisory or other services to the Company or to any Subsidiary shall be eligible for the grant of Awards hereunder as determined by the Administrator. Options intending to qualify as Incentive Stock Options may only be granted to employees of the Company or any corporate Subsidiary within the meaning of the Code, as selected by the Administrator.

4. Effective Date and Termination of Plan

This Plan was adopted by the Board and approved by the Company's stockholders on April , 2010. The Plan shall remain available for the grant of Awards until the tenth (10th) anniversary of the Effective Date. Notwithstanding the foregoing, the Plan may be terminated at such earlier time as the Board may determine. Termination of the Plan will not affect the rights and obligations of the Participants and the Company arising under Awards theretofore granted and then in effect.

5. Shares Subject to the Plan and to Awards

(a) *Aggregate Limits.* The aggregate number of Shares issuable pursuant to all Awards shall not exceed 1,980,000. The aggregate number of Shares that may be issued

pursuant to the exercise of Incentive Stock Options granted under this Plan shall not exceed 1,980,000, which number shall be calculated and adjusted pursuant to Section 12 only to the extent that such calculation or adjustment will not affect the status of any option intended to qualify as an Incentive Stock Option under Section 422 of the Code.

(b) *Adjustment.* The aggregate number of Shares available for grant under this Plan and the number of Shares subject to outstanding Awards shall be subject to adjustment as provided in Section 12. The Shares issued pursuant to Awards granted under this Plan may be shares that are authorized and unissued or shares that were reacquired by the Company, including shares purchased in the open market.

(c) *Issuance of Shares.* For purposes of Section 5(a), the aggregate number of Shares issued under this Plan at any time shall equal only the number of Shares actually issued upon exercise or settlement of an Award. The aggregate number of Shares available for Awards under this Plan at any time shall not be reduced by (i) Shares subject to Awards that have been terminated, expired unexercised, forfeited or settled in cash, (ii) Shares subject to Awards that have been retained or withheld by the Company in payment or satisfaction of the exercise price, purchase price or tax withholding obligation of an Award, or (iii) Shares subject to Awards that otherwise do not result in the issuance of Shares in connection with payment or settlement thereof. In addition, Shares that have been delivered (either actually or by attestation) to the Company in payment or satisfaction of the exercise price, purchase price or tax withholding obligation of an Award shall be available for Awards under this Plan.

6. Options

(a) *Option Awards*. Options may be granted at any time and from time to time prior to the termination of the Plan to Participants as determined by the Administrator. No Participant shall have any rights as a stockholder with respect to any Shares subject to an Option hereunder until said Shares have been issued. Each Option shall be evidenced by an Award Agreement. Options granted pursuant to the Plan need not be identical but each Option must contain and be subject to the terms and conditions set forth below.

(b) *Price*. The Administrator will establish the exercise price per Share under each Option, which, in no event will be less than the Fair Market Value of the Shares on the date of grant; provided, however, that the exercise price per Share with respect to an Option that is granted in connection with a merger or other acquisition as a substitute or replacement award for options held by optionees of the acquired entity may be less than 100% of the Fair Market Value of the Shares on the date such Option is granted if such exercise price is based on a formula set forth in the terms of the options held by such optionees or in the terms of the agreement providing for such merger or other acquisition. The exercise price of any Option may be paid in Shares, cash or a combination thereof, as determined by the Administrator, including an irrevocable commitment by a broker to pay over such amount from a sale of the Shares issuable under an Option, the delivery of previously owned Shares and withholding of Shares deliverable upon exercise.

(c) *Provisions Applicable to Options.* The date on which Options become exercisable shall be determined at the sole discretion of the Administrator and set forth in an Award

Agreement. Unless provided otherwise in the applicable Award Agreement, to the extent that the Administrator determines that an approved leave of absence is not a Termination of Employment, the vesting period and/or exercisability of an Option shall be adjusted by the Administrator during or to reflect the effects of any period during which the Participant is on an approved leave of absence or is employed on a less than full-time basis. The Administrator shall establish the term of each Option, which in no case shall exceed a period of ten (10) years from the date of grant.

(d) *Incentive Stock Options.* Notwithstanding anything to the contrary in this Section 6, in the case of the grant of an Option intending to qualify as an Incentive Stock Option: (i) if the Participant owns stock possessing more than 10% of the combined voting power of all classes of stock of the Company (a "10% Stockholder"), the exercise price of such Option must be at least 110% of the Fair Market Value of the Shares on the date of grant and the Option must expire within a period of not more than five (5) years from the date of grant, and (ii) Termination of Employment will occur when the person to whom an Award was granted ceases to be an employee (as determined in accordance with Section 3401(c) of the Code and the regulations promulgated thereunder) of the Company or any Subsidiary. Notwithstanding anything in this Section 6 to the contrary, Options designated as Incentive Stock Options shall not be eligible for treatment under the Code as Incentive Stock Options (and will be deemed to be Nonqualified Stock Options) to the extent that either (1) the aggregate Fair Market Value of Shares (determined as of the time of grant) with respect to which such Options are exercisable for the first time by the Participant during any calendar year (under all plans of the Company and any Subsidiary) exceeds $100,000, taking Options into account in the order in which they were granted, or (2) such Options otherwise remain exercisable but are not exercised within three (3) months of Termination of Employment (or such other period of time provided in Section 422 of the Code). If the requirements for an Option to qualify for incentive stock option tax treatment are changed, this Section 6(d) shall be deemed to be automatically amended to reflect such requirements.

(e) *Effect of Termination of Employment.* Unless an Option earlier expires upon the expiration date established pursuant to Section 6(c), upon a Termination of Employment (i) any portion of the Option that is not exercisable at the time of such Termination of Employment shall be forfeited and canceled as of the date of such Termination of Employment and (ii) a Participant's (or his or her Beneficiary's) rights to exercise any portion of the Option that is exercisable at the time of such Termination of Employment shall be only as follows, in each case, unless otherwise expressly provided in the Award Agreement or another contract, including an employment agreement:

(1) *Death*. If a Participant incurs a Termination of Employment by reason of death, any Option held by such Participant, to the extent then exercisable, may thereafter be exercised by the Participant's Beneficiary for a period of one hundred eighty days from the date of such death or until the expiration of the stated term of such Option, whichever period is the shorter.

(2) *Disability*. If a Participant incurs a Termination of Employment by reason of Disability, any Option held by such Participant, to the extent then exercisable, may thereafter be exercised by the Participant for a period of one hundred eighty days from

the date of such Termination of Employment or until the expiration of the stated term of such Option, whichever period is the shorter.

(3) *Cause*. If a Participant incurs a Termination of Employment by reason of a termination by the Company for Cause, the entire Option, whether or not then exercisable, shall be immediately forfeited and canceled as of the date of such Termination of Employment.

(f) *Termination for Reasons other than Death, Disability or Cause* If a Participant incurs a Termination of Employment for any reason other than death, Disability or for Cause, any Option held by such Participant, to the extent then exercisable, may thereafter be exercised by the Participant for a period of ninety days from the date of such Termination of Employment or until the expiration of the stated term of such Option, whichever period is the shorter.

7. Stock Appreciation Rights

Stock Appreciation Rights may be granted to Participants from time to time either in tandem with or as a component of other Awards granted under the Plan ("tandem SARs") or not in conjunction with other Awards ("freestanding SARs") and may, but need not, relate to a specific Option granted under Section 6. The provisions of Stock Appreciation Rights need not be the same with respect to each grant or each recipient. Any Stock Appreciation Right granted in tandem with an Award may be granted at the same time such Award is granted or at any time thereafter before exercise or expiration of such Award. All freestanding SARs shall be granted subject to the same terms and conditions applicable to Options as set forth in Section 6 and all tandem SARs shall have the same exercise price, vesting, exercisability, forfeiture and termination provisions as the Award to which they relate. Subject to the provisions of Section 6 and the immediately preceding sentence, the Administrator may impose such other conditions or restrictions on any Stock Appreciation Right as it shall deem appropriate. Stock Appreciation Rights may be settled in Shares, cash or a combination thereof, as determined by the Administrator and set forth in the applicable Award Agreement.

8. Restricted Stock and Restricted Stock Units

(a) *Restricted Stock and Restricted Stock Unit Awards.* Restricted Stock and Restricted Stock Units may be granted at any time and from time to time prior to the termination of the Plan to Participants as determined by the Administrator. Restricted Stock is an award or issuance of Shares the grant, issuance, retention, vesting and/or transferability of which is subject during specified periods of time to such conditions (including continued employment or performance conditions) and terms as the Administrator deems appropriate. Restricted Stock Units are Awards denominated in units of Shares under which the issuance of Shares is subject to such conditions (including continued employment or performance conditions) and terms as the Administrator deems appropriate. Each grant of Restricted Stock and Restricted Stock Units shall be evidenced by an Award Agreement. Unless determined otherwise by the Administrator, each Restricted Stock Unit will be equal to one Share and will entitle a Participant to either the issuance of Shares or payment of an amount of cash determined with reference to the value of Shares. To the extent determined by the Administrator, Restricted Stock and Restricted Stock Units may be satisfied or settled in Shares, cash or a combination thereof. Restricted Stock and

Restricted Stock Units granted pursuant to the Plan need not be identical but each grant of Restricted Stock and Restricted Stock Units must contain and be subject to the terms and conditions set forth below.

(b) *Contents of Agreement.* Each Award Agreement shall contain provisions regarding (i) the number of Shares or Restricted Stock Units subject to such Award or a formula for determining such number, (ii) the purchase price of the Shares, if any, and the means of payment, (iii) the performance criteria, if any, and level of achievement versus these criteria that shall determine the number of Shares or Restricted Stock Units granted, issued, retainable and/or vested, (iv) such terms and conditions on the grant, issuance, vesting and/or forfeiture of the Shares or Restricted Stock Units as may be determined from time to time by the Administrator, (v) the term of the performance period, if any, as to which performance will be measured for determining the number of such Shares or Restricted Stock Units, and (vi) restrictions on the transferability of the Shares or Restricted Stock Units. Shares issued under a Restricted Stock Award may be issued in the name of the Participant and held by the Participant or held by the Company, in each case as the Administrator may provide.

(c) *Vesting and Performance Criteria*. The grant, issuance, retention, vesting and/or settlement of shares of Restricted Stock and Restricted Stock Units will occur when and in such installments as the Administrator determines or under criteria the Administrator establishes, which may include performance criteria.

(d) *Discretionary Adjustments and Limits.* Notwithstanding the satisfaction of any performance goals, the number of Shares granted, issued, retainable and/or vested under an Award of Restricted Stock or Restricted Stock Units on account of either financial performance or personal performance evaluations may, to the extent specified in the Award Agreement, be reduced, but not increased, by the Administrator on the basis of such further considerations as the Administrator shall determine.

(e) *Voting Rights*. Unless otherwise determined by the Administrator, Participants holding shares of Restricted Stock granted hereunder may exercise full voting rights with respect to those shares during the period of restriction. Participants shall have no voting rights with respect to Shares underlying Restricted Stock Units unless and until such Shares are reflected as issued and outstanding shares on the Company's stock ledger.

(f) *Dividends and Distributions*. Participants in whose name Restricted Stock is granted shall be entitled to receive all dividends and other distributions paid with respect to those Shares, unless determined otherwise by the Administrator. The Administrator will determine whether any such dividends or distributions will be automatically reinvested in additional shares of Restricted Stock and subject to the same restrictions on transferability as the Restricted Stock with respect to which they were distributed or whether such dividends or distributions will be paid in cash. Shares underlying Restricted Stock Units shall be entitled to dividends or dividend equivalents only to the extent provided by the Administrator.

(g) *Effect of Termination of Employment.* Upon a Participant's Termination of Employment for any reason (including by reason of death or Disability), any then unvested Restricted Stock or Restricted Stock Units held by the Participant shall be forfeited and canceled

as of the date of such Termination of Employment, unless otherwise expressly provided in the Award Agreement or another contract, including an employment agreement.

9. Incentive Bonuses

(a) *General*. Each Incentive Bonus Award will confer upon the Participant the opportunity to earn a future payment tied to the level of achievement with respect to one or more performance criteria established for a performance period established by the Administrator.

(b) *Incentive Bonus Document.* The terms of any Incentive Bonus will be set forth in an Award Agreement. Each Award Agreement evidencing an Incentive Bonus shall contain provisions regarding (i) the target and maximum amount payable to the Participant as an Incentive Bonus, (ii) the performance criteria and level of achievement versus these criteria that shall determine the amount of such payment, (iii) the term of the performance period as to which performance shall be measured for determining the amount of any payment, (iv) the timing of any payment earned by virtue of performance, (v) restrictions on the alienation or transfer of the Incentive Bonus prior to actual payment, (vi) forfeiture provisions and (vii) such further terms and conditions, in each case not inconsistent with this Plan as may be determined from time to time by the Administrator.

(c) *Performance Criteria*. The Administrator shall establish the performance criteria and level of achievement versus these criteria that shall determine the target and maximum amount payable under an Incentive Bonus, which criteria may be based on financial performance and/or personal performance evaluations.

(d) *Timing and Form of Payment.* The Administrator shall determine the timing of payment of any Incentive Bonus. Payment of the amount due under an Incentive Bonus may be made in cash or in Shares, as determined by the Administrator. The Administrator may provide for or, subject to such terms and conditions as the Administrator may specify, may permit a Participant to elect for the payment of any Incentive Bonus to be deferred to a specified date or event.

(e) *Discretionary Adjustments*. Notwithstanding satisfaction of any performance goals, the amount paid under an Incentive Bonus on account of either financial performance or personal performance evaluations may, to the extent specified in the Award Agreement, be reduced, but not increased, by the Administrator on the basis of such further considerations as the Administrator shall determine.

(f) *Subplans*. Incentive Bonuses payable hereunder may be pursuant to one or more subplans.

(g) *Effect of Termination of Employment.* Upon a Participant's Termination of Employment for any reason (including by reason of death or Disability), the Participant shall receive payment in respect of any Incentive Bonuses only to the extent specified by the Administrator, unless otherwise expressly provided in the Award Agreement or another contract, including an employment agreement. Payments in respect of any such Incentive Bonuses shall be made at the time specified by the Administrator and set forth in the Award Agreement.

10. Deferral of Gains

The Administrator may, in an Award Agreement or otherwise, provide for the deferred delivery of Shares upon settlement, vesting or other events with respect to Restricted Stock or Restricted Stock Units, or in payment or satisfaction of an Incentive Bonus. Notwithstanding anything herein to the contrary, in no event will any deferral of the delivery of Shares or any other payment with respect to any Award be allowed if the Administrator determines, in its sole discretion, that the deferral would result in the imposition of the additional tax under Section 409A(a)(1)(B) of the Code. No award shall provide for deferral of compensation that does not comply with Section 409A of the Code, unless the Board, at the time of grant, specifically provides that the Award is not intended to comply with Section 409A of the Code. The Company shall have no liability to a Participant, or any other party, if an Award that is intended to be exempt from, or compliant with, Section 409A of the Code is not so exempt or compliant or for any action taken by the Board.

11. Conditions and Restrictions Upon Securities Subject to Awards

The Administrator may provide that the Shares issued upon exercise of an Option or Stock Appreciation Right or otherwise subject to or issued under an Award shall be subject to such further agreements, restrictions, conditions or limitations as the Administrator in its discretion may specify prior to the exercise of such Option or Stock Appreciation Right or the grant, vesting or settlement of such Award, including without limitation, conditions on vesting or transferability, forfeiture or repurchase provisions and method of payment for the Shares issued upon exercise, vesting or settlement of such Award (including the actual or constructive surrender of Shares already owned by the Participant) or payment of taxes arising in connection with an Award. Without limiting the foregoing, such restrictions may address the timing and manner of any resales by the Participant or other subsequent transfers by the Participant of any Shares issued under an Award, including without limitation (i) restrictions under an insider trading policy or pursuant to applicable law, (ii) restrictions designed to delay and/or coordinate the timing and manner of sales by Participant and holders of other Company equity compensation arrangements, (iii) restrictions as to the use of a specified brokerage firm for such resales or other transfers and (iv) provisions requiring Shares to be sold on the open market or to the Company in order to satisfy tax withholding or other obligations.

12. Adjustment of and Changes in the Stock; Certain Transactions

(a) In the event that any dividend or other distribution (whether in the form of cash, Shares, other securities or other property, but excluding regular, quarterly and other periodic cash dividends), stock split or a combination or consolidation of the outstanding Shares into a lesser number of shares, is declared with respect to the Shares, the authorization limits under Section 5(a) shall be increased or decreased proportionately, and the Shares then subject to each Award shall be increased or decreased proportionately without any change in the aggregate purchase price therefore. In the event the Shares shall be changed into or exchanged for a different number or class of shares of stock or securities of the Company or of another corporation, whether through recapitalization, reorganization, reclassification, merger, consolidation, split-up, spin-off, combination, repurchase or exchange of Shares or other securities of the Company, issuance of warrants or other rights to purchase Shares or other

securities of the Company, or any other similar corporate transaction or event affects the Shares such that an equitable adjustment would be required in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan, then the authorization limits under Section 5(a) shall be adjusted proportionately, and an equitable adjustment shall be made to each Share subject to an Award such that no dilution or enlargement of the benefits or potential benefits occurs. Each such Share then subject to each Award shall be adjusted to the number and class of shares into which each outstanding Share shall be so exchanged such that no dilution or enlargement of the benefits occurs, all without change in the aggregate purchase price for the Shares then subject to each Award. Action by the Administrator pursuant to this Section 12(a) may include adjustment to any or all of: (i) the number and type of Shares (or other securities or other property) that thereafter may be made the subject of Awards or be delivered under the Plan; (ii) the number and type of Shares (or other securities or other property) subject to outstanding Awards; (iii) the purchase price or exercise price of a Share under any outstanding Award or the measure to be used to determine the amount of the benefit payable on an Award; and (iv) any other adjustments the Administrator determines to be equitable. No right to purchase fractional shares shall result from any adjustment in Awards pursuant to this Section 12. In case of any such adjustment, the Shares subject to the Award shall be rounded down to the nearest whole share. The Company shall notify Participants holding Awards subject to any adjustments pursuant to this Section 12(a) of such adjustment, but (whether or not notice is given) such adjustment shall be effective and binding for all purposes of the Plan.

(b) Unless otherwise expressly provided in the Award Agreement or another contract, including an employment agreement, or under the terms of a transaction constituting a Change of Control, the Administrator may provide for the acceleration of the vesting and, if applicable, exercisability of any outstanding Award, or portion thereof, or the lapsing of any conditions of restrictions on or the time for payment in respect of any outstanding Award, or portion thereof upon termination of the Participant's employment following a Change of Control. In addition, unless otherwise expressly provided in the Award Agreement or another contract, including an employment agreement, or under the terms of a transaction constituting a Change of Control, the Administrator may provide that any or all of the following shall occur in connection with a Change of Control: (i) the substitution for the Shares subject to any outstanding Award, or portion thereof, stock or other securities of the surviving corporation or any successor corporation to the Company, or a parent or subsidiary thereof, in which event the aggregate purchase or exercise price, if any, of such Award, or portion thereof, shall remain the same, (ii) the conversion of any outstanding Award, or portion thereof, into a right to receive cash or other property upon or following the consummation of

the Change of Control in an amount equal to the value of the consideration to be received by holders of Common Shares in connection with such transaction for one Share, less the per share purchase or exercise price of such Award, if any, multiplied by the number of Shares subject to such Award, or a portion thereof, (iii) acceleration of the vesting (and, as applicable, the exercisability) of any and/or all outstanding Awards, and/or (iv) the cancellation of any outstanding and unexercised Awards upon or following the consummation of the Change of Control. Any actions or determinations of the Administrator pursuant to this Section 12(b) may, but need not be uniform as to all outstanding Awards, and the Administrator may, but need not treat all holders of outstanding Awards identically.

13. Performance-Based Compensation

The Administrator may establish performance criteria and level of achievement versus such criteria that shall determine the number of Shares to be granted, retained, vested, issued or issuable under or in settlement of or the amount payable pursuant to an Award. Notwithstanding satisfaction of any performance goals, the number of Shares issued under or the amount paid under an award may, to the extent specified in the Award Agreement, be reduced, but not increased, by the Administrator on the basis of such further considerations as the Administrator in its sole discretion shall determine.

14. Transferability

No Award may be sold, transferred, pledged, assigned, or otherwise alienated or hypothecated by a Participant other than by will or the laws of descent and distribution, and each Option or Stock Appreciation Right shall be exercisable only by the Participant during his or her lifetime. Notwithstanding the foregoing, to the extent permitted by the Administrator, the person to whom an Award is initially granted (the "Grantee") may transfer an Award to any "family member" of the Grantee (as such term is defined in Section 1(a)(5) of the General Instructions to Form S-8 under the Securities Act of 1933, as amended ("Form S-8")), to trusts solely for the benefit of such family members and to partnerships in which such family members and/or trusts are the only partners; provided that, (i) as a condition thereof, the transferor and the transferee must execute a written agreement containing such terms as specified by the Administrator, and (ii) the transfer is pursuant to a gift or a domestic relations order to the extent permitted under the General Instructions to Form S-8. Except to the extent specified otherwise in the agreement the Administrator provides for the Grantee and transferee to execute, all vesting, exercisability and forfeiture provisions that are conditioned on the Grantee's continued employment, performance or service shall continue to be determined with reference to the Grantee's employment, performance or service (and not to the status of the transferee) after any transfer of an Award pursuant to this Section 14, and the responsibility to pay any taxes in connection with an Award shall remain with the Grantee notwithstanding any transfer other than by will or intestate succession. Any attempted sale, transfer, pledge, assignment, alienation or hypothecation of an Award by a Participant in violation of this Section 14 shall result in forfeiture of such Award.

15. Suspension or Termination of Awards

Except as otherwise provided by the Administrator, if at any time (including after a notice of exercise has been delivered or an award has vested) the Chief Executive Officer or any other person designated by the Administrator (each such person, an "Authorized Officer") reasonably believes that a Participant may have committed any act constituting Cause for termination of employment, or a violation of any non-competition covenant, the Authorized Officer, Administrator or the Board may suspend the Participant's rights to exercise any Option, to vest in an Award, and/or to receive payment for or receive Shares in settlement of an Award pending a determination of whether such an act has been committed.

If the Administrator or an Authorized Officer determines a Participant has committed any act constituting Cause for termination of employment or a violation of any non-competition covenant, then except as otherwise provided by the Administrator, (a) neither the Participant nor

his or her estate nor transferee shall be entitled to exercise any Option or Stock Appreciation Right whatsoever, vest in or have the restrictions on an Award lapse, or otherwise receive payment of an Award, (b) the Participant will forfeit all outstanding Awards and (c) the Participant may be required, at the Administrator's sole discretion, to return and/or repay to the Company any then unvested Shares previously issued under the Plan. In making such determination, the Administrator or an Authorized Officer shall give the Participant an opportunity to appear and present evidence on his or her behalf at a hearing before the Administrator or its designee or an opportunity to submit written comments, documents, information and arguments to be considered by the Administrator.

16. Compliance with Laws and Regulations

This Plan, the grant, issuance, vesting, exercise and settlement of Awards thereunder, and the obligation of the Company to sell, issue or deliver Shares under such Awards, shall be subject to all applicable foreign, federal, state and local laws, rules and regulations, stock exchange rules and regulations, and to such approvals by any governmental or regulatory agency as may be required. The Company shall not be required to register in a Participant's name or deliver any Shares prior to the completion of any registration or qualification of such shares under any foreign, federal, state or local law or any ruling or regulation of any government body which the Administrator shall determine to be necessary or advisable. To the extent the Company is unable to or the Administrator deems it infeasible to obtain authority from any regulatory body having jurisdiction, which authority is deemed by the Company's counsel to be necessary to the lawful issuance and sale of any Shares hereunder, the Company and its Subsidiaries shall be relieved of any liability with respect to the failure to issue or sell such Shares as to which such requisite authority shall not have been obtained. No Option shall be exercisable and no Shares shall be issued and/or transferable under any other Award unless a registration statement with respect to the Shares underlying such Award is effective and current or the Company has determined that such registration is unnecessary.

In the event an Award is granted to or held by a Participant who is employed or providing services outside the United States, the Administrator may, in its sole discretion, modify the provisions of the Plan or of such Award as they pertain to such individual to comply with applicable foreign law or to recognize differences in local law, currency or tax policy. The Administrator may also impose conditions on the grant, issuance, exercise, vesting, settlement or retention of Awards in order to comply with such foreign law and/or to minimize the Company's obligations with respect to tax equalization for Participants employed outside their home country.

17. Withholding

To the extent required by applicable federal, state, local or foreign law, a Participant shall be required to satisfy, in a manner satisfactory to the Company, any withholding tax obligations that arise by reason of an Option exercise, disposition of Shares issued under an Incentive Stock Option, the vesting of or settlement of an Award, an election pursuant to Section 83(b) of the Code or otherwise with respect to an Award. To the extent a Participant makes an election under Section 83(b) of the Code, within ten days of filing such election with the Internal Revenue Service, the Participant must notify the Company in writing of such election. The Company and

its Subsidiaries shall not be required to issue Shares, make any payment or to recognize the transfer or disposition of Shares until all such obligations are satisfied. The Administrator may provide for or permit these obligations to be satisfied through the mandatory or elective sale of Shares and/or by having the Company withhold a portion

of the Shares that otherwise would be issued to him or her upon exercise of the Option or the vesting or settlement of an Award, or by tendering Shares previously acquired.

18. Administration of the Plan

(a) *Administrator of the Plan*. The Plan shall be administered by the Administrator who shall be the Compensation Committee of the Board or, in the absence of a Compensation Committee, the Board itself. Any power of the Administrator may also be exercised by the Board, except to the extent that the grant or exercise of such authority would cause any Award or transaction to become subject to (or lose an exemption under) the short-swing profit recovery provisions of Section 16 of the Securities Exchange Act of 1934 or cause an Award designated as a Performance Award not to qualify for treatment as performance-based compensation under Section 162(m) of the Code. To the extent that any permitted action taken by the Board conflicts with action taken by the Administrator, the Board action shall control. The Compensation Committee may by resolution authorize one or more officers of the Company to perform any or all things that the Administrator is authorized and empowered to do or perform under the Plan, and for all purposes under this Plan, such officer or officers shall be treated as the Administrator; provided, however, that the resolution so authorizing such officer or officers shall specify the total number of Awards (if any) such officer or officers may award pursuant to such delegated authority, and any such Award shall be subject to the form of Award Agreement theretofore approved by the Compensation Committee. No such officer shall designate himself or herself as a recipient of any Awards granted under authority delegated to such officer. The Compensation Committee hereby designates the Secretary of the Company and the head of the Company's human resource function to assist the Administrator in the administration of the Plan and execute agreements evidencing Awards made under this Plan or other documents entered into under this Plan on behalf of the Administrator or the Company. In addition, the Compensation Committee may delegate any or all aspects of the day-to-day administration of the Plan to one or more officers or employees of the Company or any Subsidiary, and/or to one or more agents.

(b) *Powers of Administrator*. Subject to the express provisions of this Plan, the Administrator shall be authorized and empowered to do all things that it determines to be necessary or appropriate in connection with the administration of this Plan, including, without limitation: (i) to prescribe, amend and rescind rules and regulations relating to this Plan and to define terms not otherwise defined herein; (ii) to determine which persons are Participants, to which of such Participants, if any, Awards shall be granted hereunder and the timing of any such Awards; (iii) to grant Awards to Participants and determine the terms and conditions thereof, including the number of Shares subject to Awards and the exercise or purchase price of such Shares and the circumstances under which Awards become exercisable or vested or are forfeited or expire, which terms may but need not be conditioned upon the passage of time, continued employment, the satisfaction of performance criteria, the occurrence of certain events (including a Change of Control), or other factors; (iv) to establish and verify the extent of satisfaction of any performance goals or other conditions applicable to the grant, issuance, exercisability, vesting and/or ability to retain any Award; (v) to prescribe and amend the terms of the agreements or

other documents evidencing Awards made under this Plan (which need not be identical) and the terms of or form of any document or notice required to be delivered to the Company by Participants under this Plan; (vi) to determine the extent to which adjustments are required pursuant to Section 12; (vii) to interpret and construe this Plan, any rules and regulations under this Plan and the terms and conditions of any Award granted hereunder, and to make exceptions to any such provisions if the Administrator, in good faith, determines that it is necessary to do so in light of extraordinary circumstances and for the benefit of the Company; (viii) to approve corrections in the documentation or administration of any Award; (ix) subject to any stockholder approval required in accordance with Section 19, to reduce the exercise price of any Option or Stock Appreciation Right to the Fair Market Value of the Shares at the time of the reduction if the Fair Market Value of the Shares covered by that Option or Stock Appreciation Right has declined since the date it was granted, either directly or through cancellation and regrant of the Option or Stock Appreciation Right; (x) subject to any stockholder approval required in accordance with Section 19, to exchange Options and Stock Appreciation Rights for other Awards; (xi) to cause the Company to purchase outstanding Options and Stock Appreciation Rights for cash or other consideration; (xii) to require or permit Participant elections and/or consents under this Plan to be made by means of such electronic media as the Administrator may prescribe; and (xiii) to make all other determinations deemed necessary or advisable for the administration of this Plan. The Administrator may, in its sole and absolute discretion, without amendment to the Plan, waive or amend the operation of Plan provisions respecting exercise after termination of employment or service to the Company or a Company Affiliate and, except as otherwise provided herein, adjust any of the terms of any Award. The Administrator may also (A) accelerate the date on which any Award granted under the Plan becomes exercisable or (B) accelerate the vesting date or waive or adjust any condition imposed hereunder with respect to the vesting or exercisability of an Award, provided that the Administrator, in good faith, determines that such acceleration, waiver or other adjustment is necessary or desirable in light of extraordinary circumstances.

(c) *Determinations by the Administrator.* All decisions, determinations and interpretations by the Administrator regarding the Plan, any rules and regulations under the Plan and the terms and conditions of or operation of any Award granted hereunder, shall be final and binding on all Participants, beneficiaries, heirs, assigns or other persons holding or claiming rights under the Plan or any Award. The Administrator shall consider such factors as it deems relevant, in its sole and absolute discretion, to making such decisions, determinations and interpretations including, without limitation, the recommendations or advice of any officer or other employee of the Company and such attorneys, consultants and accountants as it may select.

(d) *Subsidiary Awards*. In the case of a grant of an Award to any Participant employed by a Subsidiary, such grant may, if the Administrator so directs, be implemented by the Company issuing any subject Shares to the Subsidiary, for such lawful consideration as the Administrator may determine, upon the condition or understanding that the Subsidiary will transfer the Shares to the Participant in accordance with the terms of the Award specified by the Administrator pursuant to the provisions of the Plan. Notwithstanding any other provision hereof, such Award may be issued by and in the name of the Subsidiary and shall be deemed granted on such date as the Administrator shall determine.

19. Amendment of the Plan or Awards

The Board may amend, alter or discontinue this Plan and the Administrator may amend or alter any agreement or other document evidencing an Award made under this Plan but, except as provided pursuant to the provisions of Section 12, no such amendment shall, without the approval of the stockholders of the Company:

(a) increase the maximum number of Shares for which Awards may be granted under this Plan;

(b) reduce the price at which Options may be granted below the price provided for in Section 6(b);

(c) change the class of persons eligible to be Participants; or

(d) otherwise amend the Plan in any manner requiring stockholder approval by law or under stock exchange listing requirements.

No amendment or alteration to the Plan or an Award or Award Agreement shall be made which would impair the rights of the holder of an Award, without such holder's consent, provided that no such consent shall be required if the Administrator determines in its sole discretion and prior to the date of any Change of Control that such amendment or alteration either is required or advisable in order for the Company, the Plan or the Award to satisfy any law or regulation or to meet the requirements of or avoid adverse financial accounting consequences under any accounting standard.

20. No Liability of Company

The Company and any Subsidiary or affiliate which is in existence or hereafter comes into existence shall not be liable to a Participant or any other person as to:

(i) the non-issuance or sale of Shares as to which the Company has been unable to obtain from any regulatory body having jurisdiction the authority deemed by the Company's counsel to be necessary to the lawful issuance and sale of any Shares hereunder; and (ii) any tax consequence expected, but not realized, by any Participant or other person due to the receipt, exercise or settlement of any Award granted hereunder.

21. Non-Exclusivity of Plan

Neither the adoption of this Plan by the Board nor the submission of this Plan to the stockholders of the Company for approval shall be construed as creating any limitations on the power of the Board or the Administrator to adopt such other incentive arrangements as either may deem desirable, including without limitation, the granting of restricted stock or stock options otherwise than under this Plan or an arrangement not intended to qualify under Code Section 162(m), and such arrangements may be either generally applicable or applicable only in specific cases.

22. No Right to Employment, Reelection or Continued Service

Nothing in this Plan or an Award Agreement shall interfere with or limit in any way the right of the Company, its Subsidiaries and/or its affiliates to terminate any Participant's employment, service on the Board or service for the Company at any time or for any reason not prohibited by law, nor shall this Plan or an Award itself confer upon any Participant any right to continue his or her employment or service for any specified period of time. Neither an Award nor any benefits arising under this Plan shall constitute an employment contract with the Company, any Subsidiary and/or its affiliates. Subject to Sections 4 and 19, this Plan and the benefits hereunder may be terminated at any time in the sole and exclusive discretion of the Board without giving rise to any liability on the part of the Company, its Subsidiaries and/or its affiliates.

23. Unfunded Plan

The Plan is intended to be an unfunded plan. Participants are and shall at all times be general creditors of the Company with respect to their Awards. If the Administrator or the Company chooses to set aside funds in a trust or otherwise for the payment of Awards under the Plan, such funds shall at all times be subject to the claims of the creditors of the Company in the event of its bankruptcy or insolvency.

24. Section 409A of the Code

It is intended that any Incentive and Nonqualified Stock Options, Stock Appreciation Rights, and Restricted Stock issued pursuant to this Plan and any Award Agreement shall not constitute "Deferrals of Compensation" within the meaning of Section 409A of the Code and, as a result, shall not be subject to the requirements of Section 409A of the Code. It is further intended that any Restricted Stock Units and Incentive Bonuses issued pursuant to this Plan and any Award Agreement (which may or may not constitute "deferrals of compensation," depending on the terms of each Award) shall avoid any "plan failures" within the meaning of Section 409A(a)(1) of the Code. The Plan is to be interpreted and administered in a manner consistent with these intentions. However, no guarantee or commitment is made that the Plan or any Award Agreement shall be administered in accordance with the requirements of Section 409A of the Code, with respect to amounts that are subject to such requirements, or that the Plan or any Award Agreement shall be administered in a manner that avoids the application of Section 409A of the Code, with respect to amounts that are not subject to such requirements.

25. Required Delay in Payment on Account of a Separation from Service

Notwithstanding any other provision in this Plan or any Award Agreement, if any Award recipient is a "specified employee," as defined in Treasury Regulations section 1.409A-1(i), as of the date of his or her "Separation from Service" (as defined in authoritative IRS guidance under Section 409A of the Code), then, to the extent required by Treasury Regulations section 1.409A-3(i)(2), any payment made to the Award recipient on account of his or her Separation from Service shall not be made before a date that is six months after the date of his or her Separation from Service. The Administrator may elect any of the methods of applying this rule that are permitted under Treasury Regulations section 1.409A-3(i)(2)(ii).

SECOND AMENDMENT
TO
SECOND AMENDED AND RESTATED SECURITYHOLDERS AGREEMENT
AMONG
DOUGLAS DYNAMICS, INC.
(fka DOUGLAS DYNAMICS HOLDINGS, INC.)
AND
CERTAIN OF ITS
STOCKHOLDERS, OPTIONHOLDERS AND WARRANTHOLDERS
DATED AS OF [·], 2010

THIS SECOND AMENDMENT TO SECOND AMENDED AND RESTATED SECURITYHOLDERS AGREEMENT (the "Amendment"), dated as of [·], 2010, is being entered into by and among Douglas Dynamics, Inc. (formerly known as Douglas Dynamics Holdings, Inc.), a Delaware corporation (the "Company"), Aurora Equity Partners II L.P., a Delaware limited partnership, Aurora Overseas Equity Partners II, L.P., a Cayman Islands exempt limited partnership, Ares Corporate Opportunities Fund, L.P., a Delaware limited partnership, the holders of a majority in voting interests of the Common Stock and Preferred Stock, voting together as a single class, held by the Securityholders, and each of the Class A Securityholders listed on Exhibit A. All capitalized terms used herein but not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement (as defined below).

R E C I T A L S

WHEREAS, the Company and the Securityholders are parties to that certain Second Amended and Restated Securityholders Agreement dated as of June 30, 2004, as amended by that certain First Amendment thereto dated December 27, 2004 (the "Agreement");

WHEREAS, in connection with the proposed initial public offering of the Common Stock, the parties hereto desire to enter into this Amendment to amend the Agreement as set forth below; and

WHEREAS, pursuant to Section 13.2 of the Agreement, the Agreement may be amended, modified or supplemented by written agreement of the parties hereto.

A G R E E M E N T

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

A. Amendment to the Agreement

1. The first paragraph under the heading "RECITALS" is hereby amended and restated in its entirety to read as follows:

WHEREAS, the Company is authorized to issue an aggregate of [ ] shares of capital stock, including [ ] shares of common stock, par value $.01 per share, and [ ] shares of preferred stock, par value $.01 per share; and

2. The definition of "Preferred Stock" set forth in Section 1.1 of the Agreement is hereby amended and restated in its entirety to read as follows:

"Preferred Stock" means any preferred stock of the Company issued after the date hereof howsoever designated that is entitled to any preference over the Common Stock in the payment of dividends or in the distribution of assets upon liquidation of the Company.

3. The following shall be added as a new Section 3.5 of the Agreement:

3.5 Additional Restriction on Transfer by Certain Class A Securityholders. Subject to Article VI, each Class A Securityholder whose name is set forth on Exhibit A hereto (each, a "Specified Securityholder," and collectively, the "Specified Securityholders") agrees that, without the consent of the Aurora Entities (which consent shall not be unreasonably withheld with respect to any Transfer of Securities to a Permitted Transferee), after the occurrence of the Qualified IPO Date, such Specified Securityholder will not effectuate any Transfer or submit to any broker any sell order with respect to a proposed Transfer, of Securities at any time other than pursuant to a Tag-Along Sale by the Aurora Entities pursuant to Section 6 herein. Notwithstanding the foregoing, upon the occurrence of a "Tax Event" the Specified Securityholder shall be permitted to sell a number of Securities with a market value (calculated at the time of sale based on the market price at that time) equal to an amount that would provide the Specified Securityholder with after-tax proceeds from such sale equal to the Tax Amount. "Tax Event" shall mean the recognition of ordinary compensation income by a Specified Securityholder for United States federal income tax purposes as a result of the transfer, issuance, or vesting of Securities granted by the Company or any direct or indirect Subsidiaries of the Company to the Specified Securityholder in connection with the performance of services. The "Tax Amount" shall mean the sum of the (a) compensation income required to be included in the Specified Securityholder's taxable income for federal and state income tax purposes multiplied by the maximum marginal federal, state and local income tax rate applicable for such period and (b) other taxes imposed on such income (including FICA, FUTA, Medicare and AMT). The Securities that are permitted to be sold pursuant to this paragraph may be sold only within one (1) week after the applicable transfer, issuance or vesting that gives rise to the ordinary income recognition described above. The restrictions set forth in this Section 3.5 shall terminate upon such date as the Aurora Entities cease to collectively beneficially own at least 10% of the Company's outstanding common stock.

4. Section 6.1 of the Agreement is hereby amended and restated in its entirety to read as follows:

6.1 "Tag-Along" Sales. If either or both of the Aurora Entities (for purposes of this Section 6, collectively the "Proposed Transferor") at any time or from time to time, in one transaction or in a series of related transactions, desire to enter into an agreement (whether oral or written) to Transfer (for purposes of this Section 6, a "Tag-Along Sale") shares of Common Stock to any Person, then each of the Specified Securityholders shall have the right, but not the obligation, to elect that the Proposed Transferor be obligated to require, as a condition to such Tag-Along Sale, that the proposed purchaser purchase from each such electing Specified Securityholder up to the number of shares of Common Stock derived by multiplying the total number of shares of Common Stock owned by or issuable to such electing Specified Securityholder by a fraction, the numerator of which is equal to the number of shares of Common Stock then owned by or issuable to the Proposed Transferor that are to be purchased by the proposed purchaser (without giving effect to any reduction in such number of shares by reason of any Specified Securityholder's election to exercise the "tag-along" rights provided in this Section 6 in connection with such transaction) and the denominator of which is the total

number of shares of Common Stock owned by or issuable to the Proposed Transferor prior to such sale; *provided, however*, that if any Specified Securityholder chooses not to sell any or all Securities which such Specified Securityholder may be entitled to sell under this Section 6.1, the Proposed Transferor may sell, in the same transaction, additional shares of Common Stock equal to the difference between the number of shares of Common Stock which such Specified Securityholder is entitled to sell and the number of shares of Common Stock such Specified Securityholder chooses to sell, if any. Any such sales by any Specified Securityholder shall be on the same terms and conditions as the proposed Tag-Along Sale by the Proposed Transferor. Each Specified Securityholder whose Securities are sold in a Tag-Along Sale shall be required to bear a proportionate share of the expenses of the transaction, including, without limitation, legal, accounting and investment banking fees and expenses.

5. Section 6.2 of the Agreement is hereby amended and restated in its entirety to read as follows:

6.2 Notice of Tag-Along Opportunity. The Proposed Transferor shall promptly (and in no event less than fifteen (15) Business Days prior to the consummation thereof) provide the Company with notice (for purposes of this Section 6, the "Proposed Transferor Notice") of the proposed Tag-Along Sale (which the Company shall transmit to each Specified Securityholder within two (2) Business Days after its receipt thereof) containing the following:

(a) the name and address of the proposed transferee of the Common Stock in the Tag-Along Sale;

(b) the number of shares of Common Stock proposed to be Transferred by the Proposed Transferor in the event none of the Specified Securityholders elects to participate;

(c) the proposed amount and form of consideration to be paid for such Common Stock and the terms and conditions of payment offered by the proposed transferee;

(d) the aggregate number of shares of Common Stock held of record by the Proposed Transferor as of the date of the notice (for purposes of this Section 6, "Notice Date") from the Proposed Transferor to the Company;

(e) the aggregate number of shares of Common Stock held of record as of the Notice Date by all Specified Securityholders as a group;

(f) the maximum number of shares of Common Stock each such Specified Securityholder is entitled to include in the Tag-Along Sale (as computed in accordance with the equations set forth in Section 6.1); and

(g) that the proposed transferee has been informed of the "tag-along" rights provided for in Section 6.1.

6. Section 6.3 of the Agreement is hereby amended and restated in its entirety to read as follows:

6.3 Notice and Terms of Acceptance of Tag-Along Opportunity.

(a) If a Specified Securityholder desires to participate in such Tag-Along Sale, such Specified Securityholder shall provide written notice (the "Tag-Along Notice") to the Proposed Transferor not later than five (5) Business Days after the Notice Date setting forth the number of shares of Common Stock, if any, such Specified Securityholder elects to include in the Tag-Along Sale.

(b) The Tag-Along Notice given by any Specified Securityholder shall constitute such Specified Securityholder's binding agreement to sell such Common Stock as are included therein on the terms and conditions applicable to such sale (including the requirements of this Section 6), in which case the number of shares of Common Stock to be Transferred by the Proposed Transferor shall be correspondingly reduced. In the event that the proposed transferee does not purchase the Securities of the Proposed Transferor, then the proposed Tag-Along Sale by the Specified Securityholders to such proposed transferee shall not take place. If the Tag-Along Notice from any Specified Securityholder is not received by the Proposed Transferor within the five (5) Business Day period specified above in this Section 6.3, the Proposed Transferor shall have the right to transfer the Securities of Common Stock to the proposed transferee without any participation by such Specified Securityholder, but only on the terms and conditions stated in the notice to such Specified Securityholders or on terms and conditions no more favorable to the Proposed Transferor and only if a definitive and binding agreement to sell or otherwise transfer such Common Stock is entered into not later than forty-five (45) days after the end of such five (5) Business Day period specified above in this Section 6.3.

7. Section 6.4 of the Agreement is hereby amended and restated in its entirety to read as follows:

6.4 Application of Tag-Along Provisions. The provisions of this Section 6 shall not apply to:

(a) any Transfer to a Permitted Transferee; or

(b) any one transaction or series of related transactions involving the Transfer (other than to a Permitted Transferee) by the Proposed Transferor of less than 1% of the issued and outstanding shares of Common Stock.

8. Section 6.5 of the Agreement is hereby amended and restated in its entirety to read as follows:

6.5 Termination of Tag-Along Rights.

(a) Notwithstanding anything herein to the contrary, the rights and obligations provided for in this Section 6 shall terminate with respect to all Securities held by each Other Securityholder (other than any Specified Securityholder, the rights of whom will be set forth in Section 6.5(b)), upon the occurrence of the Qualified IPO Date.

(b) Following the occurrence of the Qualified IPO Date, each Specified Securityholder shall be entitled to the rights and obligations provided for in this Section 6 solely with respect to any Transfer by the Aurora Entities.

B. Miscellaneous

1. Except as amended as set forth above, the Agreement shall continue in full force and effect.

2. This Amendment may be signed in one or more counterparts, each of which shall be deemed an original and all of which, taken together, shall be deemed one and the same document.

[Signature Pages follows]

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Second Amended and Restated Securityholders Agreement as of the date first written above.

COMPANY:

DOUGLAS DYNAMICS, INC.

By: _____
Name: James L. Janik
Title: President and Chief Executive Officer

SECURITYHOLDERS:

AURORA EQUITY PARTNERS II L.P.

By: Aurora Capital Partners II L.P., its general partner

By: Aurora Advisors II LLC, its general partner

By: _____
Name: Timothy J. Hart
Title: Vice President, Secretary and General Counsel

AURORA OVERSEAS EQUITY PARTNERS II, L.P.

By: Aurora Overseas Capital Partners II L.P., its general partner

By: Aurora Overseas Advisors II LDC, its general partner

By: _____
Name: Timothy J. Hart
Title: Vice President, Secretary and General Counsel

ARES CORPORATE OPPORTUNITIES FUND, L.P.

By: ACOF Operating Manager, L.P., its manager

By: _____
Name: Jeffrey Serota
Title: Vice President

DOUGLAS DYNAMICS EQUITY PARTNERS L.P.
By: AURORA ADVISORS II LLC,
its general partner

By: _____
Name: Timothy J. Hart
Title: Vice President, Secretary and General Counsel

GENERAL ELECTRIC PENSION TRUST

By: GE ASSET MANAGEMENT INCORPORATED,
its investment manager

By: _____
Name:
Title:

AURORA CAPITAL GROUP 401(k) PLAN
fbo Gerald L. Parsky

By: _____
Name: John Billings
Title: Trustee

AURORA CAPITAL GROUP 401(k) PLAN
fbo Richard K. Roeder

By: _____
Name: John Billings
Title: Trustee

AURORA CAPITAL GROUP 401(k) PLAN
fbo John T. Mapes

By: _____
Name: John Billings
Title: Trustee

JAMES D. AND MARIA D. HODGSON INTERVIVOS PERSONAL TRUST

By: _____
Name: James Hodgson
Title: Trustee

DALE FREY FAMILY LIMITED PARTNERSHIP

By: _____
Name: Dale Frey
Title: General Partner

By: _____
Name: Richard K. Roeder

By: _____
Name: Richard R. Crowell

By: _____
Name: Lawrence A. Bossidy

DIANE ANDERSON REVOCABLE TRUST

By: _____
Name:
Title: Trustee

ROBERT ANDERSON, JR. REVOCABLE TRUST

By: _____
Name:
Title: Trustee

ROBERT ANDERSON LIVING TRUST

By: _____
Name:
Title: Trustee

By: _____
Name: James R. Roethle

By: _____
Name: Flemming H. Smitsdorff

By: _____
Name: Raymond S. Littlefield

By: _____
Name: Ralph R. Gould

By: _____
Name: James L. Janik

By: _____
Name: Robert McCormick

By: _____
Name: Mark Adamson

By: _____
Name: Jack O. Peiffer

By: _____
Name: Michael Wickham

By: _____
Name: John Anderson

By: _____
Name: Robert Anderson

By: _____
Name: Simon Ramo

By: _____
Name: James Hodgson

By: _____
Name: Dale Frey

EXHIBIT A

1. James Janik
2. Robert McCormick
3. Mark Adamson
4. Keith Hagelin
5. Ralph Gould
6. Flemming Smitsdorff
7. Raymond Littlefield
8. James Roethle

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Exhibit 23.2

Consent of Independent Registered Public Accounting Firm

We consent to the reference to our firm under the caption "Experts" and to the use of our report dated March 8, 2010, in this Amendment No. 6 to the Registration Statement (Form S-1 No. 333-164590) and related Prospectus of Douglas Dynamics, Inc. for the registration of shares of its common stock.

/s/ Ernst & Young LLP

Milwaukee, Wisconsin
April 29, 2010

QuickLinks