UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported): December 6, 2018

CONCRETE PUMPING HOLDINGS, INC.

(Exact name of registrant as specified in its charter)

Delaware	**001-38166**	**83-1779605**
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)

6461 Downing Street
Denver, Colorado 80229
(Address of principal executive offices, including zip code)

Registrant's telephone number, including area code: **(303) 289-7497**

Concrete Pumping Holdings Acquisition Corp.
28 West 44th Street, Suite 501
New York, New York 10036
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company ☑

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Introductory Note

On December 6, 2018 (the "Closing Date"), Concrete Pumping Holdings, Inc. (f/k/a Concrete Pumping Holdings Acquisition Corp.), a Delaware corporation (the "Company"), consummated the transactions contemplated by that certain Agreement and Plan of Merger, dated as of September 7, 2018 (the "Merger Agreement"), by and among the Company, Industrea Acquisition Corp., a Delaware corporation ("Industrea"), Concrete Pumping Holdings, Inc., a Delaware corporation ("CPH"), and certain subsidiaries of the Company, pursuant to which (a) Concrete Pumping Merger Sub Inc., a Delaware corporation and a wholly owned indirect subsidiary of the Company ("Concrete Merger Sub"), merged with and into CPH, with CPH surviving the merger as a wholly owned indirect subsidiary of the Company (the "CPH Merger"), and (b) a wholly owned direct subsidiary of the Company merged with and into Industrea, with Industrea surviving the merger as a wholly owned subsidiary of the Company (the "Industrea Merger"). The transactions contemplated by the Merger Agreement are referred to herein as the "Business Combination."

Notification of Successor Issuer under Rule 12g-3

Upon the closing of the Business Combination, all outstanding shares of Industrea's Class A common stock, par value $0.0001 per share ("Class A common stock"), were exchanged on a one-for-one basis for shares of the Company's common stock, par value $0.0001 per share ("Company common stock"), and Industrea's outstanding warrants were assumed by the Company and became exercisable for shares of the Company's common stock on the same terms as were contained in such warrants prior to the Business Combination. By operation of Rule 12g-3(a) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), the Company is the successor issuer to Industrea and has succeeded to the attributes of Industrea as the registrant, including Industrea's Securities and Exchange Commission ("SEC") file number (001-38166) and CIK Code (0001703956). The Company's common stock and public warrants are deemed to be registered under Section 12(b) of the Exchange Act, and the Company will hereafter file reports and other information with the SEC using Industrea's SEC file number (001-38166).

The Company's common stock and public warrants are listed for trading on The Nasdaq Capital Market under the symbols "BBCP" and "BBCPW," respectively, and the CUSIP numbers relating to the Company's common stock and public warrants are 206704 108 and 206704 116, respectively.

Holders of uncertificated shares of Industrea's Class A common stock immediately prior to the Business Combination have continued as holders of shares of uncertificated common stock of the Company.

Holders of Industrea's shares who have filed reports under the Exchange Act with respect to those shares should indicate in their next filing, or any amendment to a prior filing, filed on or after the Closing Date that the Company is the successor to Industrea.

Upon consummation of the Business Combination, each share of Industrea common stock was exchanged for one share of Company common stock. As a result, each director and officer (for purposes of Section 16 of the Exchange Act) of Industrea is required to file a Form 4 evidencing the disposition of shares of Industrea common stock, a Form 3 evidencing his or her status as a new director or officer of the Company, if applicable, and a Form 4 evidencing his or her acquisition of the same number of shares of Company common stock, if applicable. No shares were sold into or purchased from the market in connection with the dispositions and acquisitions reflected on these Form 4s.

Item 1.01 Entry into a Material Definitive Agreement.

Debt Financing

On the Closing Date, Concrete Merger Sub (which, upon the effectiveness of the CPH Merger, was merged with and into CPH and renamed Brundage-Bone Concrete Pumping Holdings Inc.) entered into (i) a Term Loan Agreement (the "Term Loan Agreement") among the Company, Concrete Pumping Intermediate Acquisition Corp. ("Intermediate Holdings"), Concrete Merger Sub (the "Term Loan Borrower"), Credit Suisse AG, Cayman Islands Branch as administrative agent and Credit Suisse Loan Funding LLC, Jefferies Finance LLC and Stifel Nicolaus & Company Incorporated LLC as joint lead arrangers and joint bookrunners and (ii) a Credit Agreement (the "ABL Credit Agreement") with Wells Fargo Bank, National Association, as agent, sole lead arranger and sole bookrunner, the lenders party thereto, Wells Fargo Capital Finance (UK) Limited, as UK security agent, the Company, Intermediate Holdings, Concrete Merger Sub, Brundage-Bone Concrete Pumping, Inc., a Colorado corporation ("Brundage Concrete"), and Eco-Pan, Inc., a Colorado corporation ("Eco-Pan", and collectively with Concrete Merger Sub, CPH and Brundage Concrete, the "US ABL Borrowers"), and Camfaud Concrete Pumps Limited, a private limited company incorporated and registered under the laws of England and Wales ("Camfaud Concrete"), and Premier Concrete Pumping Limited, a private limited company incorporated and registered under the laws of England and Wales ("Premier", and together with Camfaud Concrete, the "UK ABL Borrowers", and the UK ABL Borrowers together with the US ABL Borrowers, collectively, the "ABL Borrowers").

Term Loan

Maturity, Amortization and Prepayment

The initial term loans advanced under the Term Loan Agreement on the Closing Date will mature and be due and payable in full seven years after the Closing Date, with principal amortization payments in an annual amount equal to 5.00% of the original principal amount thereof. During the first 12 months following the Closing Date, the Term Loan Borrower is required to pay a prepayment premium of 1.00% of the principal amount to be prepaid in connection with a refinancing or repricing by the Term Loan Borrower of all or any portion of the initial term loans the primary purpose of which is to reduce the all-in-yield applicable to such initial term loans (x) with the proceeds of any secured term loans incurred or guaranteed by the Term Loan Borrower or any guarantor under the Term Loan Agreement or (y) in connection with any amendment to the Term Loan Agreement, in either case, (i) having or resulting in an effective interest rate as of the date of such refinancing or repricing that is (and not by virtue of any fluctuation in any "base" rate) less than the effective interest rate applicable to the initial term loans as of the date of such refinancing or repricing and (ii) in the case of a refinancing of such initial term loans, the proceeds of which are used to repay, in whole or in part, the principal of outstanding initial term loans, but excluding, in any such case, any refinancing or repricing of initial term loans in connection with any transformative acquisition or "change of control" transaction. Thereafter, the initial term loans may be prepaid without penalty or premium.

Principal Amounts

The initial terms loans extended under the Term Loan Agreement are in an aggregate principal amount of $357.0 million. In addition, the Term Loan Agreement provides the Borrowers the ability to seek commitments for, and incur, incremental term loans thereunder, subject to certain conditions, in an aggregate principal amount not to exceed to (a) the greater of $40.0 million and 50% of consolidated adjusted EBITDA *plus* (ii) the aggregate amount of all voluntary prepayments of the term loans *plus* (iii) an additional unlimited amount upon meeting certain financial metrics.

Interest Rate

Interest on borrowings under the Term Loan Agreement, at the Borrower's option, will bear interest at either (1) an adjusted Eurodollar rate or (2) an alternate base rate, in each case plus an applicable margin. The applicable margin is 6.00% with respect to Eurodollar borrowings and 5.00% with respect to base rate borrowings.

Security and Guarantees

The term loans under the Term Loan Agreement are guaranteed by the Company, Intermediate Holdings and the wholly-owned US organized restricted subsidiaries of the Company, other than certain excluded subsidiaries, and secured by (i) a first priority perfected lien on substantially all property and assets (tangible and intangible, and including all outstanding capital stock of Intermediate Holdings, the Term Loan Borrower and each of the Company's direct or indirect subsidiaries) of the Company, Intermediate Holdings, the Term Loan Borrower and the other guarantors to the extent not constituting US ABL Priority Collateral (as defined in the ABL Credit Agreement section below) (the "Term Loan Priority Collateral") subject to customary exceptions and limitations, and (ii) a second priority perfected lien on substantially all US ABL Priority Collateral subject to customary exceptions and limitations.

Covenants and Events of Default

The Term Loan Agreement also includes a number of customary negative covenants. Such covenants, among other things, limit or restrict the ability of each of the Company, Intermediate Holdings, the Term Loan Borrower and the Company's restricted subsidiaries to:

- incur additional indebtedness and make guarantees;
- incur liens on assets;
- engage in mergers or consolidations or fundamental changes;
- dispose of assets;
- pay dividends and distributions or repurchase capital stock;
- make investments, loans and advances, including acquisitions;
- amend organizational documents and other material contracts;
- enter into certain agreements that would restrict the ability to incur liens on assets;
- repay certain junior indebtedness;
- enter into certain transactions with affiliates; and
- change the conduct of its business.

The aforementioned restrictions are subject to certain exceptions including (i) the ability to incur additional indebtedness, liens, investments, dividends and distributions, and prepayments of junior indebtedness subject, in each case, to compliance with certain financial metrics and/or certain other conditions and (ii) a number of other traditional exceptions that grant the Term Loan Borrower continued flexibility to operate and develop its business.

The Term Loan Agreement also includes customary affirmative covenants, representations and warranties and events of default. The Term Loan Agreement does not include any financial maintenance covenants.

The foregoing description of the Term Loan Agreement does not purport to be complete and is qualified in its entirety by the full text of the Term Loan Agreement, a copy of which is attached hereto as Exhibit 10.29 and is incorporated herein by reference.

ABL Facility

Principal Amount and Maturity

The ABL Credit Agreement provides borrowing availability in US Dollars and UK Pounds Sterling equal to the lesser of (a) $60.0 million and (b) the aggregate of the US Borrowing Base (defined below) and the UK Borrowing Base (defined below) (the "Line Cap").

The US Borrowing Base (the "US Borrowing Base") is, at any time of determination, an amount equal to the sum of:

- 85% of all of the US ABL Borrowers' eligible accounts, *minus*
- the amount, if any, of the dilution reserve, *minus*
- customary reserves.

The UK Borrowing Base (the "UK Borrowing Base") is, at any time of determination, an amount (net of reserves) equal to the sum of:

- 85% of all of the UK ABL Borrowers' eligible accounts, *minus*
- the amount, if any, of the dilution reserve, *plus*
- the lesser of (i) $2,500,000, (ii) 35% of the UK ABL Borrowers' cost of eligible inventory consisting of finished goods and (ii) 85% of the appraised net orderly liquidation value ("NOLV") of the UK ABL Borrowers' eligible inventory consisting of finished goods, *plus*

- the lesser of (i) 100% of the net book value of eligible U.K. rolling stock and (ii) 85% of the appraised NOLV of eligible U.K. rolling stock, *plus*
- the lesser of (i) $5,000,000 and (iii) 80% of the hard costs of interim eligible U.K. rolling stock; *less*
- in each case, customary reserves.

The ABL Credit Agreement includes borrowing capacity available for standby letters of credit of up to $7.5 million, and for "swingline" loan borrowings of up to $7.5 million. Any issuance of letters of credit or making of a swingline loan will reduce the amount available under the ABL Facility.

In addition, the ABL Credit Agreement provides the ABL Borrowers the ability to seek commitments to increase the revolving commitments thereunder, subject to certain conditions, in an aggregate principal amount not to exceed $30.0 million.

Amounts borrowed under the ABL Credit Agreement may be repaid and, subject to the terms and conditions of the ABL Credit Agreement, reborrowed at any time during the term of the ABL Credit Agreement. The loans advanced under the ABL Credit Agreement will mature and be due and payable in full five years after the Closing Date.

Interest Rate

Interest on borrowings in US Dollars under the ABL Credit Agreement, at the Borrower's option, will bear interest at either (1) an adjusted LIBOR rate or (2) a base rate, in each case plus an applicable margin. Interest on borrowings in UK Pounds Sterling under the ABL Credit Agreement will bear interest at an adjusted LIBOR rate plus an applicable margin. The applicable margin is initially 2.25% with respect to LIBOR Rate borrowings and 1.25% with respect to base rate borrowings. Commencing at the completion of the first full fiscal quarter after the Closing Date, the applicable margin for borrowings under the ABL Credit Agreement are subject to two step-downs of 0.25% and 0.50% based on excess availability levels with respect to the ABL Credit Agreement.

Security and Guarantees

The obligations of the (i) US ABL Borrowers under the ABL Credit Agreement and certain of their obligations under hedging arrangements and cash management arrangements are guaranteed by the Company, Intermediate Holdings and the wholly-owned US organized restricted subsidiaries of the Company (the "US Guarantors") and (ii) the UK ABL Borrowers under the ABL Credit Agreement are unconditionally guaranteed by the Company, Intermediate Holdings, the US ABL Borrowers, the US Guarantors, Camfaud Group Limited, a private limited company incorporated and registered under the laws of England and Wales, and each existing and subsequently acquired or organized direct or indirect wholly-owned UK organized restricted subsidiary of the UK ABL Borrowers (together with the US Guarantors, the "ABL Guarantors"), in each case, other than certain excluded subsidiaries. The loans under the ABL Credit Agreement are secured by (i) with respect to the obligations of the US ABL Borrowers, (A) a perfected first priority security interest in substantially all personal property of the US ABL Borrowers and the US ABL Guarantors consisting of all accounts receivable, inventory, cash, intercompany notes, books and records, chattel paper, deposit, securities and operating accounts and all other working capital assets and all documents, instruments and general intangibles related to the foregoing (the "US ABL Priority Collateral") and (B) a perfected second priority security interest in substantially all of the Term Loan Priority Collateral and (ii) with respect to the obligations of the UK ABL Borrowers, (A) a perfected first-priority security interest in (1) the US ABL Priority Collateral, (2) all of the stock (or other ownership interests) in, and held by, the UK Borrowers, and (3) all of the UK Borrowers and UK Guarantors current and future assets and property, including a first-ranking floating charge over all current and future assets and property of each UK Borrower and UK Guarantor; and (B) a perfected second priority security interest in substantially all of the Term Loan Priority Collateral.

Covenants and Events of Default

The ABL Credit Agreement requires the ABL Borrowers to maintain a minimum fixed charge coverage ratio of 1.00:1.00 at any time when the excess availability under the ABL Credit Agreement is less than the greatest of (i) 10% of the Line Cap, (ii) $5.0 million and (iii) 12.5% of the UK Borrowing Base.

In addition, the ABL Credit Agreement also includes a number of customary negative covenants. Such covenants, among other things, limit or restrict the ability of each of the Company, Intermediate Holdings, the ABL Borrowers and the Company's restricted subsidiaries to:

- incur additional indebtedness and make guarantees;
- incur liens on assets;
- engage in mergers or consolidations or fundamental changes;
- dispose of assets;
- pay dividends and distributions or repurchase capital stock;
- make investments, loans and advances, including acquisitions;
- amend organizational documents and other material contracts;
- enter into certain agreements that would restrict the ability to incur liens on assets;
- repay certain junior indebtedness;
- enter into certain transactions with affiliates; and
- change the conduct of its business.

The aforementioned restrictions are subject to certain exceptions including (i) the ability to incur additional indebtedness, liens, investments, dividends and distributions, and prepayments of junior indebtedness subject, in each case, to compliance with certain financial metrics and/or certain other conditions and (ii) a number of other traditional exceptions that grant the ABL Borrowers continued flexibility to operate and develop its business.

The ABL Credit Agreement also includes customary affirmative covenants, representations and warranties and events of default.

The foregoing description of the ABL Credit Agreement does not purport to be complete and is qualified in its entirety by the full text of the ABL Credit Agreement, a copy of which is attached hereto as Exhibit 10.30 and is incorporated herein by reference.

Stockholders Agreement

In connection with the Business Combination, the Company, Industrea Alexandria LLC (the "Sponsor") and its affiliates, Industrea's independent directors (collectively with the Sponsor and affiliates, the "Initial Stockholders"), Argand Partners Fund, LP (the "Argand Investor"), and certain holders of CPH's capital stock ("CPH stockholders"), entered into the Stockholders Agreement. Pursuant to the Stockholders Agreement:

- the Initial Stockholders have agreed not to transfer a number of shares of the Company's common stock equal to the number of shares of Industrea's Class A common stock issued upon conversion of Industrea's outstanding Class B common stock, par value $0.0001 per share ("Founder Shares"), until (A) one year after the Closing or (B) subsequent to the Closing, (x) if the last sale price of the Company common stock equals or exceeds $12.00 per share (as adjusted for stock splits, stock dividends, reorganizations, recapitalizations and the like) for any 20 trading days within any 30-trading day period commencing at least 150 days after the Closing or (y) following the Closing, the date on which the Company completes a liquidation, merger, capital stock exchange, reorganization or other similar transaction that results in all of the Company's stockholders having the right to exchange their shares of Company common stock for cash, securities or other property;

- the Initial Stockholders have agreed not to transfer the warrants sold in a private placement concurrently with Industrea's initial public offering (the "private placement warrants") until 30 days after the Closing;

- each CPH Management Holder (as defined therein) has agreed not to transfer any shares of Company common stock acquired by such CPH Management Holder in connection with the Business Combination for a period commencing on the date of Closing and ending on the date that is (a) the first anniversary of the Closing with respect to one-third of such CPH Management Holder's securities of the Company held as of the date of Closing; (b) the second anniversary of the Closing with respect to one-third of such CPH Management Holder's securities of the Company held as of the date of Closing; and (c) the third anniversary of the Closing with respect to one-third of such CPH Management Holder's securities of the Company held as of the date of Closing;

- each Non-Management CPH Holder (as defined therein) may not transfer any shares of Company common stock acquired by such Non-Management CPH Holder in connection with the Business Combination for a period commencing on the date of Closing and ending on the date that is 180 days after the Closing; and

- the Argand Investor may not transfer any shares of Company common stock acquired by the Argand Investor in exchange for shares of Industrea's common stock ("Industrea common stock") issued to it pursuant to the Argand Subscription Agreement (as defined below) for a period commencing on the date of Closing and ending on the date that is one year after the Closing.

Notwithstanding the foregoing, transfers of these securities are permitted in certain limited circumstances as set forth in the Stockholders Agreement, including with the prior written consent of the board of directors of the Company (the "Board") (with any director who has been designated to serve on the Board by or who is an affiliate of the requesting party abstaining from such vote) and to "affiliates," as defined in the Stockholders Agreement.

In addition, pursuant to the terms of that certain rollover agreement, dated as of September 7, 2018, among the Company, the Sponsor, BBCP Investors, LLC ("Peninsula") and the other parties thereto (the "Non-Management Rollover Agreement"), Peninsula has exercised its right to designate three individuals to serve on the Company's board of directors (the "Board"), one to serve as a Class I director, one to serve as a Class II director, and one to serve as a Class III director. Under the Stockholders Agreement, Peninsula has nomination rights with respect to: (i) one director for as long as Peninsula beneficially owns more than 5% and up to 15% of the issued and outstanding shares of Company common stock; (ii) two individuals for as long as Peninsula beneficially owns more than 15% and up to 25% of the issued and outstanding shares of Company common stock; and (iii) three directors for as long as Peninsula owns more than 25% of the issued and outstanding shares of Company common stock. If Peninsula's beneficial ownership falls below one of these thresholds, Peninsula's nomination right in respect of such threshold will permanently expire. Peninsula designated and the Company has appointed each of M. Brent Stevens, Matthew Homme and Raymond Cheesman to serve on the Board, effective as of December 9, 2018, as described below under Item 2.01 in the section entitled "Directors and Officers."

The Stockholders Agreement also provides that the Company will, not later than 90 days after the Closing, file a registration statement covering the Founder Shares, the private placement warrants (including any Company common stock issued or issuable upon exercise of any such private placement warrants) and the shares of Company common stock issued to the CPH stockholders at the Closing. In addition, these stockholders will have certain demand and/or "piggyback" registration rights following the consummation of the Business Combination. The Company will bear certain expenses incurred in connection with the exercise of such rights.

The foregoing description of the Stockholders Agreement does not purport to be complete and is qualified in its entirety by the full text of the Stockholders Agreement, a copy of which is attached hereto as Exhibit 10.35 and is incorporated herein by reference.

Side Letter

In connection with the Closing and the Preferred Stock Subscription Agreement (as defined below), the Company entered into a letter agreement (the "Side Letter") with Nuveen Alternatives Advisors, LLC, on behalf of one or more funds or accounts ("Nuveen"), which provides that (i) for so long as Nuveen owns an aggregate of 5% or more of the aggregate number of outstanding shares of Company common stock, including the stock into which the Series A Preferred Stock (as defined below) is convertible, and any securities into which the Company common stock may be reclassified, Nuveen will be entitled to designate one individual to serve as a non-voting board observer of the Board to attend all meetings of the Board; and (ii) Nuveen will have the right to purchase equity securities that are issued by the Company in any capital raising transaction that occurs after the Closing to the extent necessary to maintain Nuveen's then-existing pro rata ownership in the Company on a fully diluted, as-converted basis.

The foregoing description of the Side Letter does not purport to be complete and is qualified in its entirety by the full text of the Side Letter, a copy of which is attached hereto as Exhibit 10.36 and is incorporated herein by reference.

Assignment and Assumption Agreement

In connection with the Closing, the Company entered into an assumption and assignment agreement (the "Warrant Assignment Agreement") with Industrea and Continental Stock Transfer & Trust Company, pursuant to which Industrea assigned to the Company all of its rights, interest and obligations under the warrant agreement governing Industrea's warrants. Upon the Closing, all of the outstanding warrants to purchase Industrea common stock are exercisable for an equal number of shares of Company common stock on the existing terms and conditions of such warrants.

The foregoing description of the Warrant Assignment Agreement does not purport to be complete and is qualified in its entirety by the full text of the Warrant Assignment Agreement, a copy of which is attached hereto as Exhibit 4.4 and is incorporated herein by reference.

Indemnification Agreements

In connection with the Closing, the Company entered into indemnification agreements with each of its directors and executive officers. Each indemnification agreement provides for indemnification and advancements by the Company of certain expenses and costs relating to claims, suits or proceedings arising from his service to the Company or, at the Company's request, service to other entities, as officers or directors to the maximum extent permitted by applicable law.

The foregoing description of the indemnification agreements does not purport to be complete and is qualified in its entirety by the full text of the indemnification agreements, a form of which is attached hereto as Exhibit 10.37 and is incorporated herein by reference.

Item 2.01 Completion of Acquisition or Disposition of Assets.

The disclosure set forth in the "Introductory Note" above is incorporated into this Item 2.01 by reference. On December 4, 2018, the Business Combination was approved by the stockholders of Industrea at the special meeting of stockholders (the "Special Meeting"). The Business Combination was completed on December 6, 2018. In connection with the Business Combination, 22,337,322 shares of Industrea common stock were redeemed at a per share price of approximately $10.36. Upon the Closing of the Business Combination, the Company had 28,847,707 shares of common stock outstanding, 3,270,252 of which were held by non-affiliates of the Company.

Under the Merger Agreement, the Company indirectly acquired CPH for aggregate consideration of approximately $182.5 million in cash (excluding amounts deposited in escrow at Closing) and 13,947,323 shares of Company common stock (valued at $10.20 per share) that were issued in exchange for shares of CPH's capital stock prior to the consummation of the CPH Merger pursuant to the Non-Management Rollover Agreement and that certain Management Rollover Agreement, dated September 7, 2018, by and among the Company, Industrea and members of CPH management party thereto (the "Management Rollover Agreement"). In addition, 2,783,479 CPH's options were converted into options of the Company, and pursuant to the Industrea Merger, all of the issued and outstanding shares of Industrea common stock were exchanged on a one-for-one basis for shares of Company common stock, and all of the outstanding warrants to purchase Industrea common stock are exercisable for an equal number of shares of Company common stock on the existing terms and conditions of such warrants.

In addition, immediately prior to the Closing, (i) pursuant to that certain subscription agreement (the "Argand Subscription Agreement"), dated as of September 7, 2018, by and among the Company, Industrea and the Argand Investor, Industrea issued to the Argand Investor an aggregate of 5,333,333 shares of Industrea common stock for $10.20 per share, for an aggregate cash purchase price of $54.4 million, plus an additional 2,450,980 shares of Industrea common stock at $10.20 per share, for an aggregate cash purchase price of $25.0 million to offset redemptions of Industrea's public shares in connection with the Business Combination ("Redemptions"); and (ii) pursuant to that certain subscription agreement (the "Common Stock Subscription Agreement"), dated as of September 7, 2018, Industrea issued to an accredited investor (the "Common Investor") an aggregate of 1,715,686 shares of Industrea common stock at a price of $10.20 per share, for an aggregate cash purchase price of $17.5 million, plus an aggregate of 190,632 additional shares of Industrea common stock the ("Utilization Fee Shares") as consideration for such investor's agreement to purchase Industrea common stock. The shares of Industrea common stock issued to the Argand Investor and the Common Investor were exchanged on a one-for-one basis for shares of Company common stock at the Closing.

Pursuant to the Non-Management Rollover Agreement and the Common Stock Subscription Agreement, immediately prior to the Closing the Sponsor surrendered to the Company for cancellation for no consideration an aggregate of 1,202,925 shares of Industrea common stock.

In addition, on the Closing Date, pursuant to that certain subscription agreement, dated as of September 7, 2018 (the "Preferred Stock Subscription Agreement" and collectively with the Argand Subscription Agreement and the Common Stock Subscription Agreement, the "Subscription Agreements"), by and between the Company and Nuveen, the Company issued to Nuveen 2,450,980 shares of the Company's Series A Zero-Dividend Convertible Perpetual Preferred Stock ("Series A Preferred Stock") at a price of $10.20 per share, for an aggregate cash purchase price of $25.0 million.

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

The Company makes and incorporates by reference forward-looking statements in this Current Report on Form 8-K. These forward-looking statements relate to expectations for future financial performance, business strategies or expectations for the Company's business. Specifically, forward-looking statements may include statements relating to:

- the benefits of the Business Combination;
- the future financial performance of the post-combination company following the Business Combination;
- expansion plans and opportunities; and
- other statements preceded by, followed by or that include the words "may," "can," "should," "will," "estimate," "plan," "project," "forecast," "intend," "expect," "anticipate," "believe," "seek," "target" or similar expressions.

These forward-looking statements are based on information available as of the date of this Current Report on Form 8-K and the Company's management's current expectations, forecasts and assumptions, and involve a number of judgments, risks and uncertainties. Accordingly, forward-looking statements should not be relied upon as representing the Company's views as of any subsequent date. The Company does not undertake any obligation to update forward-looking statements to reflect events or circumstances after the date they were made, whether as a result of new information, future events or otherwise, except as may be required under applicable securities laws.

As a result of a number of known and unknown risks and uncertainties, the Company's actual results or performance may be materially different from those expressed or implied by these forward-looking statements. Some factors that could cause actual results to differ include:

- the inability to maintain the listing of the Company common stock and warrants on the Nasdaq Stock Market ("Nasdaq") following the Business Combination;
- the risk that the Business Combination disrupts current plans and operations as a result of the announcement and consummation of the transactions described herein;

- the ability to recognize the anticipated benefits of the Business Combination, which may be affected by, among other things, competition and the ability of the combined business to grow and manage growth profitably;
- costs related to the Business Combination;
- changes in applicable laws or regulations;
- the possibility that the Company may be adversely affected by other economic, business, and/or competitive factors; and
- other risks and uncertainties indicated or incorporated by reference in this Current Report on Form 8-K, including those set forth in the "Risk Factors" section in the proxy statement/prospectus included in the Company's registration statement on Form S-4(File No. 333-227259), as amended and supplemented, originally filed with the U.S. Securities and Exchange Commission (the "SEC") on September 10, 2018 (as amended and supplemented, the "proxy statement/prospectus"), which is incorporated herein by reference.

Business

The business of Industrea prior to the Business Combination is described in the proxy statement/prospectus in the section entitled "Information About Industrea," which is incorporated herein by reference. The business of CPH prior to the Business Combination is described in in the proxy statement/prospectus in the section entitled "Information About CPH," which is incorporated herein by reference.

Risk Factors

The risk factors related to the Company's business and operations and the Business Combination are set forth in the proxy statement/prospectus in the section entitled "Risk Factors," which is incorporated herein by reference.

Properties

The properties of CPH are described in the proxy statement/prospectus in the section entitled "Information About CPH – Geographic Footprint and Facilities," which is incorporated herein by reference.

Selected Financial Data

The selected financial data of Industrea and CPH is set forth in the proxy statement/prospectus in the sections entitled "Selected Historical Financial Information of Industrea" and "Selected Consolidated Historical Financial Information of CPH," respectively, which are incorporated herein by reference.

Unaudited Pro Forma Condensed Combined Financial Information

The unaudited pro forma condensed combined financial information is set forth in the proxy statement/prospectus (as supplemented by the proxy statement/prospectus supplement filed on November 21, 2018) in the section entitled "Unaudited Pro Forma Condensed Combined Financial Information," which is incorporated herein by reference.

Management's Discussion and Analysis of Financial Condition and Operations

The Industrea management's discussion and analysis of financial condition and results of operations is set forth in the proxy/statement prospectus in the section entitled "Industrea Management's Discussion and Analysis of Financial Condition and Results of Operations," which is incorporated herein by reference. The CPH management's discussion and analysis of financial condition and results of operations is set forth in the proxy/statement prospectus in the section entitled "CPH Management's Discussion and Analysis of Financial Condition and Results of Operations," which is incorporated herein by reference.

Quantitative and Qualitative Disclosure about Market Risk

Quantitative and qualitative disclosure about market risk with respect to Industrea and CPH are set forth in the proxy/statement prospectus in the sections entitled "Industrea Management's Discussion and Analysis of Financial Condition and Results of Operations—Quantitative and Qualitative Disclosures about Market Risk" and "CPH Management's Discussion and Analysis of Financial Condition and Results of Operations—Quantitative and Qualitative Disclosures about Market Risk," respectively, which are incorporated herein by reference.

Security Ownership of Certain Beneficial Owners and Management

The following table sets forth information known to the Company regarding beneficial ownership of Company common stock as of December 6, 2018 by:

- each person known by the Company to be the beneficial owner of more than 5% of outstanding Company common stock;
- each of the Company's executive officers and directors; and
- all executive officers and directors of the Company as a group.

Beneficial ownership is determined according to the rules of the SEC, which generally provide that a person has beneficial ownership of a security if he, she or it possesses sole or shared voting or investment power over that security, including options and warrants that are currently exercisable or exercisable within 60 days. Common stock issuable upon exercise of options or warrants currently exercisable or exercisable within 60 days are deemed outstanding solely for purposes of calculating the percentage of class and percentage of total voting power of the beneficial owner thereof.

The beneficial ownership of common stock of the Company is based on 28,847,707 shares of Company common stock issued and outstanding as of December 6, 2018.

Unless otherwise indicated, the Company believes that each person named in the table below has sole voting and investment power with respect to all shares of Company common stock beneficially owned by him.

Directors and Officers[1]	**Number of Shares Beneficially Owned**	**Percentage of Outstanding Common Stock**
Bruce Young[2]	1,196,580	4.0%
Iain Humphries[3]	249,287	*
David Anthony Faud	220,026	*
David A.B. Brown[4]	84,250	*
Tariq Osman[5]	-	-
Heather L. Faust[5]	-	-
David G. Hall[4]	84,250	*
Brian Hodges[4]	84,250	*
Howard D. Morgan[5]	-	-
John M. Piecuch	-	-
Raymond Cheesman	-	-
Matthew Homme	-	-
M. Brent Stevens	-	-
All Executive Officers and Directors as a Group (13 individuals)	1,918,643	6.3%
Greater than 5% Stockholders		
Argand Partners LP[5]	23,010,138	58.0%
Nuveen Alternatives Advisors, LLC[6]	2,450,980	7.8%
Common Investor[7]	1,906,318	6.6%
BBCP Investors, LLC[8]	11,005,275	38.1%

* Less than 1%.

(1) Except as described in the footnotes below and subject to applicable community property laws and similar laws, the Company believes that each person listed above has sole voting and investment power with respect to such shares. Unless otherwise indicated, the business address of each of the entities, directors and executives in this table is 6461 Downing Street, Denver, Colorado 80229.
(2) Interests shown consist of 1,196,580 options to purchase 1,196,580 shares of Company common stock.
(3) Interests shown consist of 249,287 options to purchase 249,287 shares of Company common stock.
(4) Interests shown consist of (i) 28,750 shares of Company common stock converted from 28,750 Founder Shares at the Closing and (ii) 55,500 shares of Company common stock underlying private placement warrants.
(5) Interests held by Argand consist of (i) 4,403,325 shares of Company common stock held of record by the Sponsor, which were converted from Founder Shares at the Closing, (ii) 10,822,500 shares of Company common stock underlying private placement warrants held of record by the Sponsor, and (iii) an aggregate 7,784,313 shares of Company common stock issued to the Argand Investor, Argand Partners Institutional Co-Invest Fund, LP, Argand Partners Sea Fund AI, LP, Argand Partners Sea Fund QP, LP and Argand Partners Team Co-Invest Fund, LP (collectively, the "Argand Funds") at the Closing pursuant to the Subscription Agreement. The Argand Funds are managed by Argand Partners, LP. Howard D. Morgan, Heather L. Faust, Tariq Osman, Joseph Del Toro and Charles Burns are the managers of the Sponsor and share voting and investment discretion with respect to the Company common stock held of record by the Sponsor. The Sponsor is 100% owned by funds managed by Argand. Argand is also the manager of the Argand Investor. Investment decisions made by Argand require the unanimous approval of its investment committee, which is comprised of Messrs. Morgan and Osman and Ms. Faust. The business address of Argand and each of the Argand Funds is 28 West 44th Street, Suite 501, New York, New York 10036.
(6) Interests shown consist of 2,450,980 shares of Series A Preferred Stock convertible into Company common stock. Nuveen holds shared voting and dispositive power with respect to 2,450,980 shares of Series A Preferred Stock as investment manager to Teachers Insurance and Annuity Association of America, TPS Investors Master Fund, LP and Nuveen Junior Capital Opportunities Fund SV (collectively, the "Nuveen Funds"). However, all shares of Series A Preferred Stock are owned by the Nuveen Funds, and Nuveen disclaims beneficial ownership of the shares of Series A Preferred Stock reported herein except to the extent of its pecuniary interest therein. The business address of Nuveen and the Nuveen Funds is 730 Third Avenue, New York, New York 10017.
(7) The address of the business office of the Common Investor is 640 Fifth Avenue, 20th Floor, New York, New York 10019.
(8) The address of the business office of BBCP Investors, LLC is 10250 Constellation Boulevard, Suite 2230, Los Angeles, CA 90067.

Directors and Officers

Biographical information with respect to the Company's directors and executive officers immediately after the Closing is set forth in the proxy statement/prospectus in the section entitled "Newco Management After the Business Combination," which is incorporated herein by reference.

The size of the Board was increased to nine members effective upon the Closing. At the Special Meeting, each of Heather L. Faust, David G. Hall and Iain Humphries were elected by the Company's stockholders to serve as Class I directors effective upon the Closing with terms expiring at the Company's 2019 annual meeting of stockholders; each of Brian Hodges, John M. Piecuch and Howard D. Morgan were elected by the Company's stockholders to serve as Class II directors effective upon the Closing with terms expiring at the Company's 2020 annual meeting of stockholders; and David A.B. Brown, Tariq Osman and Bruce Young were elected by the Company's stockholders to serve as Class III directors effective upon the Closing with terms expiring at the Company's 2021 annual meeting of stockholders.

On December 9, 2018, in connection with Peninsula's designation of each of Raymond Cheesman, Matthew Homme and M. Brent Stevens to serve on the Board pursuant to the Non-Management Rollover Agreement, the size of the Board was increased from nine to twelve members, and the Board appointed Mr. Homme to serve as a Class I director with a term expiring at the Company's 2019 annual meeting of stockholders, Mr. Cheesman to serve as a Class II director with a term expiring at the Company's 2020 annual meeting of stockholders and Mr. Stevens to serve as a Class III director with a term expiring at the Company's 2021 annual meeting of stockholders. The Board appointed Mr. Cheesman to serve as a member of the Audit Committee and Compensation Committee and Mr. Homme to serve as a member of the Corporate Governance and Nominating Committee.

Ray Cheesman, 59, is a Senior Research Analyst at Anfield Capital, a registered investment advisor that serves as the advisor to the Anfield Universal Fixed Income Fund, an absolute return bond strategy seeking to deliver positive returns over full market cycles ("Anfield"). Prior to joining Anfield, Mr. Cheesman spent 17 years at Jefferies & Company where he worked as both an investment banker and high yield analyst. Mr. Cheesman received his B.B.A. in Finance from George Washington University.

Matthew Homme, 39, is a Managing Director at Peninsula Pacific, a private investment fund focused on control investments in the gaming, consumer and industrial sectors. Prior to joining Peninsula Pacific in 2013, Mr. Homme was a Principal with Aurora Resurgence where he focused on buyouts and special situations investments for middle-market companies and served on the boards of directors of multiple portfolio companies in North America and Europe. Previously, Mr. Homme worked in the Investment Banking Department of Jefferies & Company. Mr. Homme graduated summa cum laude from the Wharton School at the University of Pennsylvania with a B.S. in Economics and holds an M.B.A. from the Harvard Business School.

M. Brent Stevens, 58, is the founder and Manager of Peninsula Pacific, a private investment fund focused on control investments in the gaming, consumer and industrial sectors. In connection with serving as Manager of Peninsula Pacific Mr. Stevens served as the Chairman and Chief Executive Officer of Peninsula Gaming, LLC, a company which he founded in 1997 and sold to Boyd Gaming Corporation in 2012. From 1990 through 2010, Mr. Stevens worked in the investment banking group of Jefferies & Company, holding various positions, most recently as an Executive Vice President and Head of Capital Markets. He also served as a member of Jefferies' Executive Committee. Mr. Stevens received his B.A. in Accounting from the University of Southern California and holds an M.B.A. from the Wharton School at the University of Pennsylvania.

Director Independence

The listing standards of Nasdaq require that a majority of the Board be independent. An "independent director" is defined generally as a person other than an officer or employee of a company or its subsidiaries or any other individual having a relationship which in the opinion of the board of directors of such company, would interfere with the director's exercise of independent judgment in carrying out the responsibilities of a director.

Ms. Faust and Messrs. Hall, Hodges, Piecuch, Morgan, Brown, Osman, Cheesman and Homme, being a majority of the directors on the Board, have been determined to be independent by the Board pursuant to the rules of Nasdaq.

Committees of the Board of Directors

Following the Closing, the standing committees of the Board consist of an audit committee (the "Audit Committee"), a compensation committee (the "Compensation Committee"), a corporate governance and nominating committee (the "Corporate Governance and Nominating Committee") and an indemnification committee (the "Indemnification Committee"). Each of the committees reports to Board. The composition, duties and responsibilities of these committees are set forth below.

Audit Committee

The Audit Committee is responsible for, among other things, (i) appointing, retaining and evaluating the Company's independent registered public accounting firm and approving all services to be performed by them; (ii) overseeing the Company's independent registered public accounting firm's qualifications, independence and performance; (ii) overseeing the financial reporting process and discussing with management and the Company's independent registered public accounting firm the interim and annual financial statements that the Company files with the SEC; (iv) reviewing and monitoring the Company's accounting principles, accounting policies, financial and accounting controls and compliance with legal and regulatory requirements; (v) establishing procedures for the confidential anonymous submission of concerns regarding questionable accounting, internal controls or auditing matters; and (vi) reviewing and approving related person transactions.

Effective upon the Closing, the Board appointed Messrs. Brown and Piecuch as members of the Audit Committee. On December 9, 2018, the Board appointed Mr. Cheesman as a member of the Audit Committee. All members of the Audit Committee are independent within the meaning of the federal securities laws and the meaning of the Nasdaq Rules. Each member of the Audit Committee meets the requirements for financial literacy under the applicable rules and regulations of the SEC and Nasdaq, and the Board has determined that Mr. Brown is an "audit committee financial expert," as that term is defined by the applicable rules of the SEC. The Board has approved a written charter under which the Audit Committee operates. A copy of the charter is available on the Company's website.

Compensation Committee

The Compensation Committee is responsible for, among other things, (i) reviewing key employee compensation goals, policies, plans and programs; (ii) reviewing and approving the compensation of the Company's directors, chief executive officer and other executive officers; (iii) reviewing and approving employment agreements and other similar arrangements between the Company and the Company's executive officers; and (iv) administering the Company's stock plans and other incentive compensation plans.

Effective upon the Closing, the Board appointed Messrs. Osman, Hodges and Morgan as members of the Compensation Committee. On December 9, 2018, the Board appointed Mr. Cheesman as a member of the Compensation Committee. The Board has approved a written charter under which the Compensation Committee operates. A copy of the charter is available on the Company's website.

Corporate Governance and Nominating Committee

The Corporate Governance and Nominating Committee is responsible for, among other things, considering and making recommendations to the Board on matters relating to the selection and qualification of directors of the Company and candidates nominated to serve as directors of the Company, as well as other matters relating to the duties of directors of the Company, the operation of the Board and corporate governance.

Effective upon the Closing, the Board appointed Messrs. Brown, Hall and Osman as members of the Corporate Governance and Nominating Committee. On December 9, 2018, the Board appointed Mr. Homme as a member of the Corporate Governance and Nominating Committee. The Board has approved a written charter under which the Corporate Governance and Nominating Committee operates. A copy of the charter is available on the Company's website.

Indemnification Committee

The Indemnification Committee is responsible for evaluating post-Closing indemnification claims under the Merger Agreement. Effective upon the Closing, the Board appointed Messrs. Brown, Osman and Piecuch as members of the Indemnification Committee.

Executive Compensation

A description of the compensation of Industrea's and CPH's executive officers and directors before the consummation of the Business Combination is set forth in the proxy statement/prospectus in the section entitled "Executive Compensation," which is incorporated herein by reference.

A description of the Company's executive compensation following the Closing is set forth in the proxy statement/prospectus in the section entitled "Newco Management After the Business Combination – Post-Combination Company Executive and Director Compensation," which is incorporated herein by reference.

At the Special Meeting, the stockholders of the Company approved the Concrete Pumping Holdings, Inc. 2018 Omnibus Incentive Plan (the "Incentive Plan"). The description of the Incentive Plan set forth in the proxy statement/prospectus section entitled "The Incentive Plan Proposal" is incorporated herein by reference. A copy of the full text of the Incentive Plan is filed as Exhibit 10.38 to this Current Report on Form 8-K and is incorporated herein by reference. Following the consummation of the Business Combination, the Company expects that the Board or the Compensation Committee will make grants of awards under the Incentive Plan to eligible participants.

Certain Relationships and Related Transactions

The description of certain relationships and related transactions is included in the proxy statement/prospectus in the section entitled "Certain Relationships and Related Party Transactions," which is incorporated herein by reference.

The information set forth in the sections entitled "Stockholders Agreement" and "Indemnification Agreements" in Item 1.01 of this Current Report on Form 8-K is incorporated herein by reference.

The information regarding the Argand Subscription Agreement set forth in Item 2.01 of this Current Report on Form 8-K is incorporated herein by reference.

Legal Proceedings

The description of legal proceedings is included in the proxy statement/prospectus in the section entitled "Information about CPH – Legal Proceedings," which is incorporated herein by reference.

Market Price and Dividends on the Registrant's Common Equity and Related Stockholder Matters

In connection with the Closing, the Company's common stock and warrants began trading on Nasdaq under the symbols "BBCP" and "BBCPW," respectively, and Industrea's units, Class A common stock and warrants were delisted from Nasdaq. As of the Closing Date there were 34 holders of record of Company common stock.

The Company has not paid any cash dividends on its common stock to date. It is the present intention of the Company to retain any earnings for use in its business operations and, accordingly, the Company does not anticipate the Board declaring any dividends in the foreseeable future.

Recent Sales of Unregistered Securities

The disclosure set forth above in this Item 2.01 with respect to the issuance of the Company common stock in the CPH Merger pursuant to the Non-Management Rollover Agreement and the Management Rollover Agreement and the Series A Preferred Stock pursuant to the Preferred Stock Subscription Agreement is incorporated herein by reference.

The Company common stock issued in the CPH Merger pursuant to the Non-Management Rollover Agreement and the Management Rollover Agreement and the Series A Preferred Stock issued pursuant to the Preferred Stock Subscription Agreement was not registered under the Securities Act in reliance on the exemption from registration provided by Section 4(a)(2) of the Securities Act and/or Regulation D promulgated thereunder.

Description of Securities

A description of the Company common stock, preferred stock and warrants is included in the proxy statement/prospectus in the section entitled "Description of Newco Securities," which is incorporated herein by reference.

Indemnification of Directors and Officers

The Charter (as defined below) provides that the Company's officers and directors will be indemnified by the Company to the fullest extent authorized by Delaware law, as it now exists or may in the future be amended. In addition, the Charter provides that the Company's directors will not be personally liable for monetary damages to the Company for breaches of their fiduciary duty as directors, unless they violated their duty of loyalty to the Company or its stockholders, acted in bad faith, knowingly or intentionally violated the law, authorized unlawful payments of dividends, unlawful stock purchases or unlawful redemptions, or derived an improper personal benefit from their actions as directors. The Company has entered into agreements with its officers and directors to provide contractual indemnification in addition to the indemnification provided for in the Charter. The Bylaws (as defined below) also permit the Company to secure insurance on behalf of any officer, director or employee for any liability arising out of his or her actions, regardless of whether Delaware law would permit such indemnification. The Company has purchased a policy of directors' and officers' liability insurance that insures its officers and directors against the cost of defense, settlement or payment of a judgment in some circumstances and insures the Company against its obligations to indemnify its officers and directors.

The information set forth in the section entitled "Indemnification Agreements" in Item 1.01 of this Current Report on Form 8-K is incorporated herein by reference.

Financial Statements, Supplementary Data and Exhibits

The information set forth under Item 9.01 of this Current Report on Form 8-K is incorporated herein by reference.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The disclosure set forth above under Item 1.01 regarding the Term Loan Agreement and ABL Credit Agreement is incorporated herein by reference.

Item 3.02 Unregistered Sales of Equity Securities.

The disclosure set forth above in Item 2.01 with respect to the issuance of the Company common stock in the CPH Merger pursuant to the Non-Management Rollover Agreement and the Management Rollover Agreement and the Series A Preferred Stock pursuant to the Preferred Stock Subscription Agreement is incorporated herein by reference.

The Company common stock issued in the CPH Merger pursuant to the Non-Management Rollover Agreement and the Management Rollover Agreement and the Series A Preferred Stock issued pursuant to the Preferred Stock Subscription Agreement was not be registered under the Securities Act in reliance on the exemption from registration provided by Section 4(a)(2) of the Securities Act and/or Regulation D promulgated thereunder.

Item 3.03 Material Modification to Rights of Security Holders.

On December 6, 2018, in connection with the consummation of the Business Combination, the Company amended and restated its certificate of incorporation (as so amended and restated, the "Charter") and bylaws (as so amended and restated, the "Bylaws").

Copies of the Charter and the Bylaws are included as Exhibits 3.1 and 3.2, respectively, to this Current Report on Form 8-K and are incorporated herein by reference.

Item 5.01 Changes in Control of Company.

The information set forth above in the "Introductory Note" and Item 2.01 is incorporated herein by reference.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

The information set forth above in the sections titled "Directors and Executive Officers," "Director Independence," "Committees of the Board of Directors" and "Executive Compensation" in Item 2.01 are incorporated herein by reference.

In addition, the Incentive Plan became effective upon the Closing. The material terms of the Incentive Plan are described in the proxy statement/prospectus in the section entitled "The Incentive Plan Proposal," which is incorporated herein by reference.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

The disclosure set forth in Item 3.03 of this Current Report on Form 8-K is incorporated in this Item 5.03 by reference. In connection with the Closing, the Company changed its fiscal year from December 31 to October 31. Accordingly, the Company expects to file a transition report on Form 10-K for the period from January 1, 2018 through October 31, 2018 within 75 days after the Closing Date.

Item 5.06. Change in Shell Company Status.

As a result of the Business Combination, which fulfilled the definition of an "initial business combination" as required by Industrea's organizational documents, Industrea ceased to be a shell company upon the Closing. The material terms of the Business Combination are described in the section entitled "The Business Combination Proposal" of the proxy statement/prospectus, and are incorporated herein by reference.

Item 7.01 Regulation FD Disclosure.

On December 6, 2018, Industrea announced the consummation of the Business Combination. A copy of the press release is furnished herewith as Exhibit 99.1.

Furnished as Exhibit 99.2 hereto is a copy of an investor presentation that the Company intends to use for investor meetings.

The information in this Item 7.01 and Exhibits 99.1 and 99.2 attached hereto shall not be deemed "filed" for purposes of Section 18 of the Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference in any filing under the Securities Act or the Exchange Act, except as expressly set forth by specific reference in such filing.

Item 9.01. Financial Statements and Exhibits.

(a) Financial Statements of Business Acquired.

The consolidated financial statements of CPH as of October 31, 2017 and 2016 and for the years ended October 31, 2017, 2016 and 2015 and the related notes and report of independent registered public accounting firm thereto are included as Exhibit 99.3 and incorporated herein by reference.

The consolidated financial statements of CPH for the nine months ended July 31, 2018 are included as Exhibit 99.4 and incorporated herein by reference.

The consolidated financial statements of Camfaud Concrete as of November 16, 2016 and September 30, 2016 and 2015 and for the period from October 1, 2016 to November 16, 2016 and for the years ended September 30, 2016 and 2015 and the related notes and report of independent registered public accounting firm thereto are included in the proxy statement/prospectus and incorporated herein by reference.

The consolidated financial statements of Industrea for the year ended December 31, 2017 and for the period from April 7, 2017 (date of inception) to December 31, 2017 and the related notes thereto and report of independent registered public accounting firm thereon are set forth in the proxy statement/prospectus beginning on page F-3 and are incorporated herein by reference.

The unaudited financial statements of Industrea for the three and nine months ended September 30, 2018 and for the period from April 7, 2017 (date of inception) to September 30, 2017 and the related notes thereto are set forth in the proxy statement/prospectus beginning on page F-18 and are incorporated herein by reference.

(b) Pro Forma Financial Information.

The unaudited pro forma condensed combined financial information of the Company beginning on page 91 of the proxy statement/prospectus (as supplemented by the proxy statement/prospectus supplement filed on November 21, 2018) is incorporated herein by reference.

(d) Exhibits

The following exhibits are being filed herewith:

Exhibit No.	Description
2.1	Agreement and Plan of Merger, dated as of September 7, 2018, by and among the Company, Industrea Acquisition Corp., Concrete Pumping Intermediate Acquisition Corp., Concrete Pumping Merger Sub Inc., Industrea Acquisition Merger Sub Inc., Concrete Pumping Holdings, Inc. and PGP Investors, LLC, as the Holder Representative (incorporated by reference to Exhibit 2.1 of the Current Report on Form 8-K filed by Industrea Acquisition Corp. on September 7, 2018).
2.2	Amendment No. 1 to Agreement and Plan of Merger, dated as of October 30, 2018, by and among the Company, Industrea Acquisition Corp., Concrete Pumping Intermediate Acquisition Corp., Concrete Pumping Merger Sub Inc., Industrea Acquisition Merger Sub Inc., Concrete Pumping Holdings, Inc., and PGP Investors, LLC, as the Holder Representative.
2.3	Amendment No. 2 to Agreement and Plan of Merger, dated as of November 16, 2018, by and among the Company, Industrea Acquisition Corp., Concrete Pumping Intermediate Acquisition Corp., Concrete Pumping Merger Sub Inc., Industrea Acquisition Merger Sub Inc., Concrete Pumping Holdings, Inc., and PGP Investors, LLC, as the Holder Representative.
3.1	Amended and Restated Certificate of Incorporation.
3.2	Amended and Restated Bylaws.
3.3	Certificate of Designations.
4.1	Specimen Common Stock Certificate.
4.2	Specimen Warrant Certificate.
4.3	Warrant Agreement, dated July 26, 2017, between Industrea Acquisition Corp. and Continental Stock Transfer & Trust Company, as warrant agent (incorporated by reference to Exhibit 4.1 of the Current Report on Form 8-K filed by Industrea Acquisition Corp. on August 1, 2017).
4.4	Assignment and Assumption Agreement, by and among the Company, Industrea Acquisition Corp. and Continental Stock Transfer & Trust Company.
10.1	Letter Agreement, dated as of July 26, 2017, by and among Industrea Acquisition Corp., its officers, certain directors and Industrea Alexandria LLC (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K (File No. 001-38166), filed by Industrea Acquisition Corp. on August 1, 2017).
10.2	Letter Agreement, dated as of July 26, 2017, by and among Industrea Acquisition Corp., its independent directors and Industrea Alexandria LLC (incorporated by reference to Exhibit 10.2 to the Current Report on Form 8-K (File No. 001-38166), filed by Industrea Acquisition Corp. on August 1, 2017).
10.3	Amendment to Letter Agreement, dated as of October 12, 2017, by and among Industrea Acquisition Corp. and its independent directors, (incorporated by reference to Exhibit 10.6 to the Annual Report on Form 10-K (File No. 001-38166), filed by Industrea Acquisition Corp. on March 29, 2018).
10.4	Promissory Note, dated April 10, 2017, issued to Industrea Alexandria LLC (incorporated by reference to Exhibit 10.2 to the Registration Statement on Form S-1 (File No. 333-219053), filed by Industrea Acquisition Corp. on June 29, 2017).
10.5	Investment Management Trust Agreement, dated as of July 26, 2017, by and between Industrea Acquisition Corp. and Continental Stock Transfer & Trust Company (incorporated by reference to Exhibit 10.3 to the Current Report on Form 8-K (File No. 001-38166), filed by Industrea Acquisition Corp. on August 1, 2017).
10.6	Registration Rights Agreement, dated as of July 26, 2017, by and among Industrea Acquisition Corp., Industrea Alexandria LLC and the Holders signatory thereto (incorporated by reference to Exhibit 10.4 to the Current Report on Form 8-K (File No. 001-38166), filed by Industrea Acquisition Corp. on August 1, 2017).
10.7	Securities Subscription Agreement, effective as of April 10, 2017, between Industrea Acquisition Corp., and Industrea Alexandria LLC (incorporated by reference to Exhibit 10.5 to the Company's Registration Statement on Form S-1 (File No. 333-219053), filed by Industrea Acquisition Corp. on June 29, 2017).
10.8	Amended and Restated Private Placement Warrants Purchase Agreement, dated June 28, 2017, between Industrea Acquisition Corp. and Industrea Alexandria LLC (incorporated by reference to Exhibit 10.6 to the Registration Statement on Form S-1 (File No. 333-219053), filed by Industrea Acquisition Corp. on June 29, 2017).

10.9	Administrative Support Agreement, dated July 26, 2017, by and between Industrea Acquisition Corp. and Industrea Alexandria LLC (incorporated by reference to Exhibit 10.5 to the Current Report on Form 8-K (File No. 001-38166), filed by Industrea Acquisition Corp. on August 1, 2017).
10.10	Non-Management Rollover Agreement, dated September 7, 2018, by and among Concrete Pumping Holdings Acquisition Corp., Industrea Acquisition Corp. and the Rollover Holders party thereto (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K (File No. 001-38166), filed by Industrea Acquisition Corp. on September 7, 2018).
10.11	Management Rollover Agreement, dated September 7, 2018, by and among Concrete Pumping Holdings Acquisition Corp., Industrea Acquisition Corp. and the Rollover Holders party thereto (incorporated by reference to Exhibit 10.2 to the Current Report on Form 8-K (File No. 001-38166), filed by Industrea Acquisition Corp. on September 7, 2018).
10.12	U.K. Share Purchase Agreement, dated September 7, 2018, by and among Lux Concrete Holdings II S.á r.l., Concrete Pumping Holdings Acquisition Corp. and the Vendors party thereto (incorporated by reference to Exhibit 10.3 to the Current Report on Form 8-K (File No. 001-38166), filed by Industrea Acquisition Corp. on September 7, 2018).
10.13	Argand Subscription Agreement, dated September 7, 2018, by and among Industrea Acquisition Corp., Concrete Pumping Holdings Acquisition Corp. and Argand Partners Fund, LP (incorporated by reference to Exhibit 10.4 to the Current Report on Form 8-K (File No. 001-38166), filed by Industrea Acquisition Corp. on September 7, 2018).
10.14	Form of Common Stock Subscription Agreement (incorporated by reference to Exhibit 10.5 to the Current Report on Form 8-K (File No. 001-38166), filed by Industrea Acquisition Corp. on September 7, 2018).
10.15	Preferred Stock Subscription Agreement, dated September 7, 2018, by and among the Company, Industrea Acquisition Corp. and Nuveen Alternatives Advisors, LLC (incorporated by reference to Exhibit 10.6 to the Current Report on Form 8-K (File No. 001-38166), filed by Industrea Acquisition Corp. on September 7, 2018).
10.16	Commitment Letter, dated September 7, 2018, by and among Concrete Pumping Merger Sub Inc., Credit Suisse Loan Funding LLC and Credit Suisse AG (incorporated by reference to Exhibit 10.7 to the Current Report on Form 8-K (File No. 001-38166), filed by Industrea Acquisition Corp. on September 7, 2018).
10.17	Amended and Restated Commitment Letter, dated September 26, 2018 by and among Concrete Pumping Merger Sub Inc., Credit Suisse Loan Funding LLC, Credit Suisse AG, Jefferies Finance LLC, Stifel Bank & Trust and Stifel Nicolaus & Company, Incorporated (incorporated by reference to Exhibit 10.7 to the Quarterly Report on Form 10-Q filed by Industrea Acquisition Corp. on October 19, 2018).
10.18	Commitment Letter, dated September 7, 2018, by and among Concrete Pumping Merger Sub Inc., and Wells Fargo Bank, National Association (incorporated by reference to Exhibit 10.8 to the Current Report on Form 8-K (File No. 001-38166), filed by Industrea Acquisition Corp. on September 7, 2018).
10.19	Expense Reimbursement Letter, dated September 7, 2018, by and among Argand Partners Fund, LP, Industrea Alexandria LLC, Industrea Acquisition Corp., Concrete Pumping Holdings, Inc. and BBCP Investors, LLC (incorporated by reference to Exhibit 10.9 to the Current Report on Form 8-K (File No. 001-38166), filed by Industrea Acquisition Corp. on September 7, 2018).
10.20	Convertible Promissory Note, dated as of October 9, 2018, issued to Industrea Alexandria LLC (incorporated by reference to Exhibit 10.1 of the Current Report on Form 8-K filed by Industrea Acquisition Corp. on October 9, 2018).
10.21	Concrete Pumping Holdings, Inc. 2015 Equity Incentive Plan (incorporated by reference to Exhibit 10.1 of the Registration Statement on Form S-4 filed by Concrete Pumping Holdings Acquisition Corp. on October 22, 2018).
10.22	First Amendment to Concrete Pumping Holdings, Inc. 2015 Equity Incentive Plan (incorporated by reference to Exhibit 10.2 of the Registration Statement on Form S-4 filed by Concrete Pumping Holdings Acquisition Corp. on October 22, 2018).
10.23	Form Stock Option Agreement under Concrete Pumping Holdings, Inc. 2015 Equity Incentive Plan (incorporated by reference to Exhibit 10.3 of the Registration Statement on Form S-4 filed by Concrete Pumping Holdings Acquisition Corp. on October 22, 2018).

10.24	Employment Agreement by and between Brundage-Bone Concrete Pumping, Inc. and Bruce Young, dated July 11, 2014 (incorporated by reference to Exhibit 10.4 of the Registration Statement on Form S-4 filed by Concrete Pumping Holdings Acquisition Corp. on October 22, 2018).
10.25	Employment Agreement by and between Brundage-Bone Concrete Pumping, Inc. and Stephen De Bever, dated August 4, 2017 (incorporated by reference to Exhibit 10.5 of the Registration Statement on Form S-4 filed by Concrete Pumping Holdings Acquisition Corp. on October 22, 2018).
10.26	Employment Agreement by and between Brundage-Bone Concrete Pumping, Inc. and Iain Humphries, dated August 4, 2017 (incorporated by reference to Exhibit 10.6 of the Registration Statement on Form S-4 filed by Concrete Pumping Holdings Acquisition Corp. on October 22, 2018).
10.27	Employment Agreement by and between Brundage-Bone Concrete Pumping, Inc. and Gary Bernardez, dated May 26, 2015 (incorporated by reference to Exhibit 10.7 of the Registration Statement on Form S-4 filed by Concrete Pumping Holdings Acquisition Corp. on October 22, 2018).
10.28	Employment Agreement by and between Camfaud Concrete Pumps Limited and David Faud, dated November 17, 2016 (incorporated by reference to Exhibit 10.8 of the Registration Statement on Form S-4 filed by Concrete Pumping Holdings Acquisition Corp. on October 22, 2018).
10.29	Term Loan Agreement, dated as of December 6, 2018, among the Company, Concrete Pumping Intermediate Acquisition Corp., Brundage-Bone Concrete Pumping Holdings, Inc. (f/k/a Concrete Pumping Merger Sub, Inc.), as borrower, the financial institutions party thereto, Credit Suisse AG, Cayman Islands Branch, as administrative agent, and Credit Suisse Loan Funding LLC, Jefferies Finance LLC and Stifel Nicolaus & Company Incorporated LLC, as joint lead arrangers and joint bookrunners.
10.30	Credit Agreement, dated as of December 6, 2018, by and among the Company, Wells Fargo Bank, National Association, as agent, sole lead arranger and sole bookrunner, the lenders party thereto, Wells Fargo Capital Finance (UK) Limited, as UK security agent, Concrete Pumping Intermediate Acquisition Corp., Brundage-Bone Concrete Pumping Holdings, Inc. (f/k/a Concrete Pumping Merger Sub, Inc.), Brundage-Bone Concrete Pumping, Inc. and Eco-Pan, Inc., as US Borrowers, and Camfaud Concrete Pumps Limited and Premier Concrete Pumping Limited, as the UK borrowers.
10.31	US Guaranty and Security Agreement, dated as of December 6, 2018, by each of the US ABL Borrowers and US ABL Guarantors in favor of Wells Fargo Bank, National Association, as agent.
10.32	Guarantee and Debenture, dated as of December 6, 2018, by each of the UK ABL Borrowers and UK ABL Guarantors in favor of Wells Fargo Capital Finance (UK) Limited, as UK security agent.
10.33	Pledge and Security Agreement, dated as of December 6, 2018, by Concrete Merger Sub Inc., as term loan borrower, and the guarantors in respect of the obligations under Term Loan Agreement, dated as of December 6, 2018, party thereto in favor of Credit Suisse AG, Cayman Islands Branch, as administrative agent.
10.34	Guaranty Agreement, dated as of December 6, 2018, by the guarantors in respect of the obligations under Term Loan Agreement, dated as of December 6, 2018, party thereto in favor of Credit Suisse AG, Cayman Islands Branch as administrative agent.
10.35	Stockholders Agreement, dated December 6, 2018, by and among the Company and the Investors party thereto.
10.36	Letter Agreement, dated as of December 6, 2018, by and between the Company and Nuveen Alternative Advisors, LLC, on behalf of one or more funds and accounts.
10.37	Form of Indemnification Agreement.
10.38	Concrete Pumping Holdings, Inc. 2018 Omnibus Incentive Plan.
21.1	Subsidiaries of the Registrant.
99.1	Press Release.
99.2	Investor Presentation.
99.3	Concrete Pumping Holdings, Inc. Consolidated Financial Statements as of October 31, 2017 and 2016 and for the years ended October 31, 2017, 2016 and 2015.
99.4	Concrete Pumping Holdings, Inc. Consolidated Financial Statements for the nine months ended July 31, 2018.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

CONCRETE PUMPING HOLDINGS, INC.

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer and Secretary

Dated: December 10, 2018

Exhibit 2.2

Execution Version

AMENDMENT NO. 1

TO

AGREEMENT AND PLAN OF MERGER

THIS AMENDMENT NO. 1 to the Agreement and Plan of Merger, dated as of October 30, 2018 (this "Amendment"), is entered into by and among Concrete Pumping Holdings Acquisition Corp., a Delaware corporation and wholly owned subsidiary of Industrea ("Newco"), Industrea Acquisition Corp., a Delaware corporation ("Industrea"), Concrete Pumping Intermediate Acquisition Corp., a Delaware corporation and a wholly owned subsidiary of Newco ("Concrete Parent"), Concrete Pumping Merger Sub Inc., a Delaware corporation and a wholly owned subsidiary of Concrete Parent ("Concrete Merger Sub"), Industrea Acquisition Merger Sub Inc., a Delaware corporation and a wholly owned subsidiary of Newco ("Industrea Merger Sub"), Concrete Pumping Holdings, Inc., a Delaware corporation (the "Company"), and PGP Investors, LLC, a Delaware limited liability company, solely in its capacity as the initial Holder Representative (together with Newco, Industrea, Concrete Parent, Concrete Merger Sub, Industrea Merger Sub and the Company, the "Parties" and each, a "Party"). Capitalized terms used but not otherwise defined herein shall have the respective meanings assigned to such terms in the Existing Agreement (as defined below).

WHEREAS, the Parties have entered into an Agreement and Plan of Merger (the "Existing Agreement"), dated as of September 7, 2018, by and among Newco, Industrea, Concrete Parent, Concrete Merger Sub, Industrea Merger Sub, the Company and the Holder Representative; and

WHEREAS, the Parties hereto desire to amend the Existing Agreement on the terms and subject to the conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1 . Amendment to the Existing Agreement. Effective as of the date hereof, the Existing Agreement is hereby amended by replacing Annex K-1 of the Existing Agreement in its entirety with the form of Amended and Restated Certificate of Incorporation of Newco attached hereto as Annex A (the "Amended Newco Charter").

2 . Date of Effectiveness; Limited Effect. Except as expressly provided in this Amendment, all of the terms and provisions of the Existing Agreement are and will remain in full force and effect and are hereby ratified and confirmed by the Parties. Without limiting the generality of the foregoing, the amendments contained herein will not be construed as an amendment to or waiver of any other provision of the Existing Agreement or of any other Transaction Document or as a waiver of or consent to any further or future action on the part of any Party that would require the waiver or consent of any other parties to the Existing Agreement. Each reference in the Existing Agreement to "this Agreement," "the Agreement," "hereunder," "hereof," "herein," or words of like import, and each reference to the Existing Agreement in any other agreements, documents, or instruments executed and delivered pursuant to, or in connection with, the Existing Agreement, will mean and be a reference to the Existing Agreement as amended by Section 1 of this Amendment. Each reference in the Existing Agreement to Annex K-1 and each reference to Annex K-1 in any other agreement, document, or instrument executed and delivered pursuant to, or in connection with, the Existing Agreement, will mean and be a reference to the Amended Newco Charter.

3 . Miscellaneous. This Amendment shall be governed by, and construed in accordance with, the same laws as the Existing Agreement. This Amendment shall be binding upon and inure to the benefit of each of the Parties and their respective successors and permitted assigns. The captions in this Amendment are for convenience only and shall not be considered a part of or affect the construction or interpretation of any provision of this Amendment. This Amendment may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Amendment and the Existing Agreement (together with Schedules and Annexes to the Existing Agreement) constitute the sole and entire agreement among the Parties with respect to the subject matter contained herein and supersede any other representations, warranties, covenants, understandings or agreements, oral or otherwise, that may have been made or entered into by or among any of the Parties with respect to such subject matter.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the parties have here unto caused this Amendment to be duly executed as of the date first above written.

CONCRETE PUMPING HOLDINGS ACQUISITION CORP.

By: /s/ Tariq Osman
Name: Tariq Osman
Title: President

INDUSTREA ACQUISITION CORP.

By: /s/ Tariq Osman
Name: Tariq Osman
Title: Executive Vice President

CONCRETE PUMPING INTERMEDIATE ACQUISITION CORP.

By: /s/ Tariq Osman
Name: Tariq Osman
Title: President

CONCRETE PUMPING MERGER SUB INC.

By: /s/ Tariq Osman
Name: Tariq Osman
Title: President

INDUSTREA ACQUISITION MERGER SUB INC.

By: /s/ Tariq Osman
Name: Tariq Osman
Title: President

CONCRETE PUMPING HOLDINGS, INC.

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer

PGP INVESTORS, LLC, solely in its capacity as the Holder Representative

By: /s/ M. Brent Stevens
Name: M. Brent Stevens
Title: Authorized Signatory

[*Signature Page to Amendment No. 1 to the Agreement and Plan of Merger*]

Annex A

Amended Newco Charter

[See Annex B-1 to the Proxy Statement/Prospectus]

Exhibit 2.3

AMENDMENT NO. 2

TO

AGREEMENT AND PLAN OF MERGER

THIS AMENDMENT NO. 2 to the Agreement and Plan of Merger, dated as of November 16, 2018 (this "Amendment No. 2"), is entered into by and among Concrete Pumping Holdings Acquisition Corp., a Delaware corporation and wholly owned subsidiary of Industrea ("Newco"), Industrea Acquisition Corp., a Delaware corporation ("Industrea"), Concrete Pumping Intermediate Acquisition Corp., a Delaware corporation and a wholly owned subsidiary of Newco ("Concrete Parent"), Concrete Pumping Merger Sub Inc., a Delaware corporation and a wholly owned subsidiary of Concrete Parent ("Concrete Merger Sub"), Industrea Acquisition Merger Sub Inc., a Delaware corporation and a wholly owned subsidiary of Newco ("Industrea Merger Sub"), Concrete Pumping Holdings, Inc., a Delaware corporation (the "Company"), and PGP Investors, LLC, a Delaware limited liability company, solely in its capacity as the initial Holder Representative (together with Newco, Industrea, Concrete Parent, Concrete Merger Sub, Industrea Merger Sub and the Company, the "Parties" and each, a "Party"). Capitalized terms used but not otherwise defined herein shall have the respective meanings assigned to such terms in the Existing Agreement (as defined below).

WHEREAS, the Parties have entered into an Agreement and Plan of Merger (the "Existing Agreement"), dated as of September 7, 2018, by and among Newco, Industrea, Concrete Parent, Concrete Merger Sub, Industrea Merger Sub, the Company and the Holder Representative;

WHEREAS, the Parties have entered into an Amendment No. 1 to the Existing Agreement (" Amendment No. 1"), dated as of October 30, 2018, by and among Newco, Industrea, Concrete Parent, Concrete Merger Sub, Industrea Merger Sub, the Company and the Holder Representative; and

WHEREAS, the Parties hereto desire to further amend the Existing Agreement on the terms and subject to the conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1 . Amendment No. 2 to the Existing Agreement. Effective as of the date hereof, the Existing Agreement is hereby amended by replacing Annex K-1 of the Existing Agreement in its entirety with the form of Amended and Restated Certificate of Incorporation of Newco attached hereto as Annex A (the "Amended Newco Charter").

2 . Date of Effectiveness; Limited Effect. Except as expressly provided in this Amendment No. 2, all of the terms and provisions of the Existing Agreement are and will remain in full force and effect and are hereby ratified and confirmed by the Parties. Without limiting the generality of the foregoing, the amendments contained herein will not be construed as an amendment to or waiver of any other provision of the Existing Agreement or of any other Transaction Document or as a waiver of or consent to any further or future action on the part of any Party that would require the waiver or consent of any other parties to the Existing Agreement. Each reference in the Existing Agreement to "this Agreement," "the Agreement," "hereunder," "hereof," "herein," or words of like import, and each reference to the Existing Agreement in any other agreements, documents, or instruments executed and delivered pursuant to, or in connection with, the Existing Agreement, will mean and be a reference to the Existing Agreement as amended by Section 1 of this Amendment No. 2. Each reference in the Existing Agreement to Annex K-1 and each reference to Annex K-1 in any other agreement, document, or instrument executed and delivered pursuant to, or in connection with, the Existing Agreement, will mean and be a reference to the Amended Newco Charter.

3 . Miscellaneous. This Amendment No. 2 shall be governed by, and construed in accordance with, the same laws as the Existing Agreement. This Amendment No. 2 shall be binding upon and inure to the benefit of each of the Parties and their respective successors and permitted assigns. The captions in this Amendment No. 2 are for convenience only and shall not be considered a part of or affect the construction or interpretation of any provision of this Amendment No 2. This Amendment No. 2 may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Amendment No. 2, Amendment No. 1 and the Existing Agreement (together with Schedules and Annexes to the Existing Agreement) constitute the sole and entire agreement among the Parties with respect to the subject matter contained herein and supersede any other representations, warranties, covenants, understandings or agreements, oral or otherwise, that may have been made or entered into by or among any of the Parties with respect to such subject matter.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the parties have here unto caused this Amendment No. 2 to be duly executed as of the date first above written.

CONCRETE PUMPING HOLDINGS ACQUISITION CORP.

By: /s/ Tariq Osman
Name: Tariq Osman
Title: President

INDUSTREA ACQUISITION CORP.

By: /s/ Tariq Osman
Name: Tariq Osman
Title: Executive Vice President

CONCRETE PUMPING INTERMEDIATE ACQUISITION CORP.

By: /s/ Tariq Osman
Name: Tariq Osman
Title: President

CONCRETE PUMPING MERGER SUB INC.

By: /s/ Tariq Osman
Name: Tariq Osman
Title: President

INDUSTREA ACQUISITION MERGER SUB INC.

By: /s/ Tariq Osman
Name: Tariq Osman
Title: President

CONCRETE PUMPING HOLDINGS, INC.

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer

PGP INVESTORS, LLC, solely in its capacity as the Holder Representative

By: /s/ M. Brent Stevens
Name: M. Brent Stevens
Title: Authorized Signatory

[*Signature Page to Amendment No. 2 to the Agreement and Plan of Merger*]

Annex A

See Exhibit 3.1 to this Current Report on Form 8-K

Exhibit 3.1

Execution Version

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
CONCRETE PUMPING HOLDINGS ACQUISITION CORP.

December 6, 2018

Concrete Pumping Holdings Acquisition Corp., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), DOES HEREBY CERTIFY AS FOLLOWS:

1. The name of the Corporation is "Concrete Pumping Holdings Acquisition Corp." The original certificate of incorporation of the Corporation was filed with the Secretary of the State of Delaware on August 29, 2018 (the "Original Certificate").

2. This Amended and Restated Certificate of Incorporation (this "Amended and Restated Certificate"), which both restates and amends the provisions of the Original Certificate, was duly adopted in accordance with Sections 228, 242 and 245 of the General Corporation Law of the State of Delaware, as amended from time to time (the "DGCL").

3. This Amended and Restated Certificate shall become effective on the date of filing with Secretary of State of Delaware.

4. The text of the Original Certificate is hereby restated and amended in its entirety to read as follows:

ARTICLE I
NAME

The name of the corporation is Concrete Pumping Holdings, Inc. (the "Corporation").

ARTICLE II
PURPOSE

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the DGCL. In addition to the powers and privileges conferred upon the Corporation by law and those incidental thereto, the Corporation shall possess and may exercise all the powers and privileges that are necessary or convenient to the conduct, promotion or attainment of the business or purposes of the Corporation.

ARTICLE III
REGISTERED AGENT

The address of the Corporation's registered office in the State of Delaware is 251 Little Falls Drive in the City of Wilmington, County of New Castle, State of Delaware, 19808, and the name of the Corporation's registered agent at such address is Corporation Service Company.

ARTICLE IV
CAPITALIZATION

Section 4.1 Authorized Capital Stock. The total number of shares of all classes of capital stock, each with a par value of $0.0001 per share, which the Corporation is authorized to issue is 510,000,000 shares, consisting of (a) 500,000,000 shares of common stock (the "Common Stock"), and (b) 10,000,000 shares of preferred stock, par value $0.0001 per share (the "Preferred Stock").

Section 4.2 Preferred Stock. The Board of Directors of the Corporation (the "Board") is hereby expressly authorized to provide out of the unissued shares of the Preferred Stock for one or more series of Preferred Stock and to establish from time to time the number of shares to be included in each such series and to fix the voting rights, if any, designations, powers, preferences and relative, participating, optional, special and other rights, if any, of each such series and any qualifications, limitations and restrictions thereof, as shall be stated in the resolution or resolutions adopted by the Board providing for the issuance of such series and included in a certificate of designation (a "Preferred Stock Designation") filed pursuant to the DGCL, and the Board is hereby expressly vested with the authority to the full extent provided by law, now or hereafter, to adopt any such resolution or resolutions.

Section 4.3 Common Stock.

(a) *Voting*.

(i) Except as otherwise required by law or this Amended and Restated Certificate (including any Preferred Stock Designation), the holders of the Common Stock shall exclusively possess all voting power with respect to the Corporation.

(ii) Except as otherwise required by law or this Amended and Restated Certificate (including any Preferred Stock Designation), the holders of shares of Common Stock shall be entitled to one vote for each such share on each matter properly submitted to the stockholders on which the holders of the Common Stock are entitled to vote.

(iii) Except as otherwise required by law or Certificate (including any Preferred Stock Designation), at any annual or special meeting of the stockholders of the Corporation, holders of the Common Stock will have the exclusive right to vote for the election of directors and on all other matters properly submitted to a vote of the stockholders. Notwithstanding the foregoing, except as otherwise required by law or this Amended and Restated Certificate (including any Preferred Stock Designation), holders of shares of any series of Common Stock shall not be entitled to vote on any amendment to this Amended and Restated Certificate (including any amendment to any Preferred Stock Designation) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series of Preferred Stock are entitled exclusively, either separately or together with the holders of one or more other such series, to vote thereon pursuant to this Amended and Restated Certificate (including any Preferred Stock Designation) or the DGCL.

(b) *Dividends*. Subject to applicable law, the rights, if any, of the holders of any outstanding series of the Preferred Stock, the holders of shares of Common Stock shall be entitled to receive such dividends and other distributions (payable in cash, property or capital stock of the Corporation) when, as and if declared thereon by the Board from time to time out of any assets or funds of the Corporation legally available therefor and shall share equally on a per share basis in such dividends and distributions.

(c) *Liquidation*, *Dissolution or Winding Up of the Corporation*. Subject to applicable law, the rights, if any, of the holders of any outstanding series of the Preferred Stock, in the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, after payment or provision for payment of the debts and other liabilities of the Corporation, the holders of shares of Common Stock shall be entitled to receive all the remaining assets of the Corporation available for distribution to its stockholders, ratably in proportion to the number of shares of Common Stock held by them.

Section 4.4 Rights and Options. The Corporation has the authority to create and issue rights, warrants and options entitling the holders thereof to acquire from the Corporation any shares of its capital stock of any class or classes, with such rights, warrants and options to be evidenced by or in instrument(s) approved by the Board. The Board is empowered to set the exercise price, duration, times for exercise and other terms and conditions of such rights, warrants or options; provided, however, that the consideration to be received for any shares of capital stock issuable upon exercise thereof may not be less than the par value thereof.

Section 4.5 Withholding. The Corporation is entitled to withhold and pay any taxes from or in respect of the holders of any outstanding capital stock of the Corporation, to the extent it is required to do so by law. To the extent the Corporation is required by applicable law to pay a withholding tax in respect of a holder of any outstanding capital stock of the Corporation and the Corporation does not withhold such tax from a distribution that the Corporation would otherwise then make to such holder in respect of such stock, such holder shall promptly reimburse the Corporation upon request for such tax.

ARTICLE V
BOARD OF DIRECTORS

Section 5.1 Board Powers. The business and affairs of the Corporation shall be managed by, or under the direction of, the Board. In addition to the powers and authority expressly conferred upon the Board by statute, this Amended and Restated Certificate or the Bylaws of the Corporation ("Bylaws"), the Board is hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation, subject, nevertheless, to the provisions of the DGCL, this Amended and Restated Certificate, and any Bylaws adopted by the stockholders; provided, however, that no Bylaws hereafter adopted by the stockholders shall invalidate any prior act of the Board that would have been valid if such Bylaws had not been adopted.

Section 5.2 Number, Election and Term.

(a) The number of directors of the Corporation, other than those who may be elected by the holders of one or more series of the Preferred Stock voting separately by class or series, shall be fixed from time to time exclusively by the Board pursuant to a resolution adopted by a majority of the Board.

(b) Subject to Section 5.5 hereof, the Board shall be divided into three classes, as nearly equal in number as possible and designated Class I, Class II and Class III. The Board is authorized to assign members of the Board already in office to Class I, Class II or Class III. The term of the initial Class I Directors shall expire at the first annual meeting of the stockholders of the Corporation following the effectiveness of this Amended and Restated Certificate; the term of the initial Class II Directors shall expire at the second annual meeting of the stockholders of the Corporation following the effectiveness of this Amended and Restated Certificate; and the term of the initial Class III Directors shall expire at the third annual meeting of the stockholders of the Corporation following the effectiveness of this Amended and Restated Certificate. At each succeeding annual meeting of the stockholders of the Corporation, beginning with the first annual meeting of the stockholders of the Corporation following the effectiveness of this Amended and Restated Certificate, successors to the class of directors whose term expires at that annual meeting shall be elected for a three-year term or until the election and qualification of their respective successors in office, subject to their earlier death, resignation or removal. Subject to Section 5.5 hereof, if the number of directors is changed, any increase or decrease shall be apportioned by the Board among the classes so as to maintain the number of directors in each class as nearly equal as possible, but in no case shall a decrease in the number of directors shorten the term of any incumbent director. Subject to the rights of the holders of one or more series of Preferred Stock, voting separately by class or series, to elect directors pursuant to the terms of one or more series of Preferred Stock, the election of directors shall be determined by a plurality of the votes cast by the stockholders present in person or represented by proxy at the meeting and entitled to vote thereon. The Board is hereby expressly authorized, by resolution or resolutions thereof, to assign members of the Board already in office to the aforesaid classes at the time this Amended and Restated Certificate (and therefore such classification) becomes effective in accordance with the DGCL.

(c) Subject to Section 5.5 hereof, a director shall hold office until the annual meeting for the year in which his or her term expires and until his or her successor has been elected and qualified, subject, however, to such director's earlier death, resignation, retirement, disqualification or removal.

(d) Unless and except to the extent that the Bylaws shall so require, the election of directors need not be by written ballot.

Section 5.3 Newly Created Directorships and Vacancies. Subject to Section 5.5 hereof, newly created directorships resulting from an increase in the number of directors and any vacancies on the Board resulting from death, resignation, retirement, disqualification, removal or other cause may be filled solely and exclusively by a majority vote of the remaining directors then in office, even if less than a quorum, or by a sole remaining director (and not by stockholders), and any director so chosen shall hold office for the remainder of the full term of the class of directors to which the new directorship was added or in which the vacancy occurred and until his or her successor has been elected and qualified, subject, however, to such director's earlier death, resignation, retirement, disqualification or removal.

Section 5.4 Removal. Subject to Section 5.5 hereof, any or all of the directors may be removed from office at any time, but only for cause and only by the affirmative vote of holders of a majority of the voting power of all then outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class.

Section 5.5 Preferred Stock - Directors. Notwithstanding any other provision of this Article V, and except as otherwise required by law, whenever the holders of one or more series of the Preferred Stock shall have the right, voting separately by class or series, to elect one or more directors, the term of office, the filling of vacancies, the removal from office and other features of such directorships shall be governed by the terms of such series of the Preferred Stock as set forth in this Amended and Restated Certificate (including any Preferred Stock Designation) and such directors shall not be included in any of the classes created pursuant to this Article V unless expressly provided by such terms.

ARTICLE VI
BYLAWS

In furtherance and not in limitation of the powers conferred upon it by law, the Board shall have the power and is expressly authorized to adopt, amend, alter or repeal the Bylaws. The affirmative vote of a majority of the Board shall be required to adopt, amend, alter or repeal the Bylaws. The Bylaws also may be adopted, amended, altered or repealed by the stockholders; provided, however, that in addition to any vote of the holders of any class or series of capital stock of the Corporation required by law or by this Amended and Restated Certificate (including any Preferred Stock Designation), the affirmative vote of the holders of at least a majority of the voting power of all then outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required for the stockholders to adopt, amend, alter or repeal the Bylaws; and provided, further, however, that no Bylaws hereafter adopted by the stockholders shall invalidate any prior act of the Board that would have been valid if such Bylaws had not been adopted.

ARTICLE VII
MEETINGS OF STOCKHOLDERS; ACTION BY WRITTEN CONSENT

Section 7.1 Meetings. Subject to the rights, if any, of the holders of any outstanding series of the Preferred Stock, and to the requirements of applicable law, special meetings of stockholders of the Corporation may be called only by the Chairman of the Board, Chief Executive Officer of the Corporation, or the Board pursuant to a resolution adopted by a majority of the Board, and the ability of the stockholders to call a special meeting is hereby specifically denied. Except as provided in the foregoing sentence, special meetings of stockholders may not be called by another person or persons.

Section 7.2 Advance Notice. Advance notice of stockholder nominations for the election of directors and of business to be brought by stockholders before any meeting of the stockholders of the Corporation shall be given in the manner provided in the Bylaws.

Section 7.3 Action by Written Consent. Except as may be otherwise provided for or fixed pursuant to this Amended and Restated Certificate (including any Preferred Stock Designation) relating to the rights of the holders of any outstanding series of Preferred Stock, any action required or permitted to be taken by the stockholders of the Corporation must be effected by a duly called annual or special meeting of such stockholders and may not be effected by written consent of the stockholders.

ARTICLE VIII
LIMITED LIABILITY; INDEMNIFICATION

Section 8.1 Limitation of Director Liability. A director of the Corporation shall not be liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except to the extent such exemption from liability or limitation thereof is not permitted under the DGCL as the same exists or may hereafter be amended. Any amendment, modification or repeal of the foregoing sentence shall not adversely affect any right or protection of a director of the Corporation hereunder in respect of any act or omission occurring prior to the time of such amendment, modification or repeal. If the DGCL is hereafter amended to authorize corporate action further limiting or eliminating personal liability of directors, then the liability of each current or former director or officer of the Corporation shall be limited or eliminated to the fullest extent permitted by the DGCL as so amended from time to time.

Section 8.2 Indemnification and Advancement of Expenses.

(a) To the fullest extent permitted by applicable law, as the same exists or may hereafter be amended, the Corporation shall indemnify and hold harmless each person who is or was made a party or is threatened to be made a party to or is otherwise involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "proceeding") by reason of the fact that he or she is or was a director or officer of the Corporation or, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust, other enterprise or nonprofit entity, including service with respect to an employee benefit plan (an "indemnitee"), whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee or agent, or in any other capacity while serving as a director, officer, employee or agent, against all liability and loss suffered and expenses (including, without limitation, attorneys' fees, judgments, fines, ERISA excise taxes and penalties and amounts paid in settlement) reasonably incurred by such indemnitee in connection with such proceeding. The Corporation shall to the fullest extent not prohibited by applicable law pay the expenses (including attorneys' fees) incurred by an indemnitee in defending or otherwise participating in any proceeding in advance of its final disposition; provided, however, that, to the extent required by applicable law, such payment of expenses in advance of the final disposition of the proceeding shall be made only upon receipt of an undertaking, by or on behalf of the indemnitee, to repay all amounts so advanced if it shall ultimately be determined that the indemnitee is not entitled to be indemnified under this Section 8.2 or otherwise. The rights to indemnification and advancement of expenses conferred by this Section 8.2 shall be contract rights and such rights shall continue as to an indemnitee who has ceased to be a director, officer, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators. Notwithstanding the foregoing provisions of this Section 8.2(a), except for proceedings to enforce rights to indemnification and advancement of expenses, the Corporation shall indemnify and advance expenses to an indemnitee in connection with a proceeding (or part thereof) initiated by such indemnitee only if such proceeding (or part thereof) was authorized by the Board.

(b) The rights to indemnification and advancement of expenses conferred on any indemnitee by this Section 8.2 shall not be exclusive of any other rights that any indemnitee may have or hereafter acquire under law, this Amended and Restated Certificate, the Bylaws, an agreement, vote of stockholders or disinterested directors, or otherwise.

(c) Any repeal or amendment of this Section 8.2 by the stockholders of the Corporation or by changes in law, or the adoption of any other provision of this Amended and Restated Certificate inconsistent with this Section 8.2, shall, unless otherwise required by law, be prospective only (except to the extent such amendment or change in law permits the Corporation to provide broader indemnification rights on a retroactive basis than permitted prior thereto), and shall not in any way diminish or adversely affect any right or protection existing at the time of such repeal or amendment or adoption of such inconsistent provision in respect of any proceeding (regardless of when such proceeding is first threatened, commenced or completed) arising out of, or related to, any act or omission occurring prior to such repeal or amendment or adoption of such inconsistent provision.

(d) This Section 8.2 shall not limit the right of the Corporation, to the extent and in the manner authorized or permitted by law, to indemnify and to advance expenses to persons other than indemnitees.

(e) The Corporation may maintain insurance, at its expense, to protect itself and any indemnitee against any such expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the DGCL.

ARTICLE IX
CORPORATE OPPORTUNITY

(a) To the extent allowed by law, the doctrine of corporate opportunity, or any other analogous doctrine, shall not apply with respect to the Corporation or any of its non-employee directors, or any of their respective affiliates, in circumstances where the application of any such doctrine would conflict with any fiduciary duties or contractual obligations they may have as of the date of this Amended and Restated Certificate or in the future, and the Corporation renounces any expectancy that any of the non-employee directors of the Corporation will offer any such corporate opportunity of which he or she may become aware to the Corporation, except, the doctrine of corporate opportunity shall apply with respect to any of the non-employee directors of the Corporation with respect to a corporate opportunity that was offered to such person solely in his or her capacity as a director of the Corporation and such opportunity is one the Corporation is legally and contractually permitted to undertake and would otherwise be reasonable for the Corporation to pursue.

(b) Neither the alteration, amendment, addition to or repeal of this Article IX, nor the adoption of any provision of this Amended and Restated Certificate inconsistent with this Article IX, shall eliminate or reduce the effect of this Article IX in respect of any business opportunity first identified or any other matter occurring, or any cause of action, suit or claim that, but for this Article IX, would accrue or arise, prior to such alteration, amendment, addition, repeal or adoption. This Article IX shall not limit any protections or defenses available to, or indemnification or advancement rights of, any director or officer of the Corporation under this Amended and Restated Certificate, the Bylaws or applicable law.

ARTICLE X
EXCLUSIVE FORUM FOR CERTAIN LAWSUITS

Section 10.1 Forum. Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for any stockholder (including a beneficial owner) to bring (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim against the Corporation, its directors, officers or employees arising pursuant to any provision of the DGCL or this Amended and Restated Certificate or the Bylaws, or (iv) any action asserting a claim against the Corporation, its directors, officers or employees governed by the internal affairs doctrine, except for, as to each of (i) through (iv) above, any claim (A) as to which the Court of Chancery determines that there is an indispensable party not subject to the jurisdiction of the Court of Chancery (and the indispensable party does not consent to the personal jurisdiction of the Court of Chancery within ten days following such determination), (B) which is vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery, or (C) arising under The Securities Act of 1933, as amended, or for which the Court of Chancery does not have subject matter jurisdiction, including, without limitation, any claim arising under The Securities Exchange Act of 1934, as amended, both as to which the federal district court for the District of Delaware shall be the sole and exclusive forum.

Section 10.2 Consent to Jurisdiction. If any action the subject matter of which is within the scope of Section 10.1 immediately above is filed in a court other than a court located within the State of Delaware (a "Foreign Action") in the name of any stockholder, such stockholder shall be deemed to have consented to (i) the personal jurisdiction of the state and federal courts located within the State of Delaware in connection with any action brought in any such court to enforce Section 10.1 immediately above (an "FSC Enforcement Action") and (ii) having service of process made upon such stockholder in any such FSC Enforcement Action by service upon such stockholder's counsel in the Foreign Action as agent for such stockholder.

Section 10.3 Severability. If any provision or provisions of this Article X shall be held to be invalid, illegal or unenforceable as applied to any person or entity or circumstance for any reason whatsoever, then, to the fullest extent permitted by law, the validity, legality and enforceability of such provisions in any other circumstance and of the remaining provisions of this Article X (including, without limitation, each portion of any sentence of this Article X containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) and the application of such provision to other persons or entities and circumstances shall not in any way be affected or impaired thereby. Any person or entity purchasing or otherwise acquiring any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Article X.

ARTICLE XI
AMENDMENT OF CERTIFICATE OF INCORPORATION

The Corporation reserves the right at any time and from time to time to amend, alter, change or repeal any provision contained in this Amended and Restated Certificate (including any Preferred Stock Designation), and other provisions authorized by the laws of the State of Delaware at the time in force that may be added or inserted, in the manner now or hereafter prescribed by this Amended and Restated Certificate and the DGCL; provided, however that the affirmative vote of holders of at least sixty-six and two thirds percent (66 2/3%) of the total number of all then-outstanding shares of capital stock entitled to vote generally on the election of directors, voting as a single class, shall be required to amend or repeal Articles IV, V, VI, VII, VIII, IX, X and XI of this Amended and Restated Certificate.

IN WITNESS WHEREOF, Concrete Pumping Holdings Acquisition Corp. has caused this Amended and Restated Certificate to be duly executed and acknowledged in its name and on its behalf by an authorized officer as of the date first set forth above.

CONCRETE PUMPING HOLDINGS ACQUISITION CORP.

By: /s/ Tariq Osman
Name: Tariq Osman
Title: President

[*Signature Page to A&R Certificate of Incorporation (Concrete Pumping Holdings Acquisition Corp.)*]

Exhibit 3.2

AMENDED AND RESTATED BYLAWS
OF
CONCRETE PUMPING HOLDINGS, INC.

Adopted December 6, 2018

Article 1

Stockholders

1.1 Place of Meetings. Meetings of stockholders of Concrete Pumping Holdings, Inc., a Delaware corporation (the "Corporation"), shall be held at the place, either within or without the State of Delaware, as may be designated by the Board of Directors of the Corporation (the "Board of Directors") from time to time.

1.2 Annual Meetings. Annual meetings of stockholders shall be held at such time and place as fixed by the Board of Directors for the purpose of electing directors and transacting any other business as may properly come before such meetings.

1.3 Special Meetings. Except as otherwise required by law, special meetings of stockholders for any purpose or purposes may be called at any time only by the Board of Directors, the Chairman of the Board of Directors or the Lead Director of the Board of Directors, to be held at such place, date and time as shall be designated in the notice or waiver of notice thereof. Only business within the purposes described in the Corporation's notice of meeting required by Section 1.4 may be conducted at the special meetings. The ability of the stockholders to call a special meeting is specifically denied.

1.4 Notice of Meetings. Whenever stockholders are required or permitted to take any action at a meeting, a written notice of the meeting shall be given that shall state the place, date and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Unless otherwise provided by law, the Corporation's Certificate of Incorporation (as the same may be amended or restated from time to time, the "Certificate of Incorporation") or these Bylaws, the written notice of any meeting shall be given no fewer than 10 nor more than 60 days before the date of the meeting to each stockholder entitled to vote at such meeting. If mailed, such notice shall be deemed to be given when deposited in the mail, postage prepaid, directed to the stockholder at his or her address as it appears on the records of the Corporation.

1.5 Adjournments. Any meeting of stockholders, annual or special, may adjourn from time to time to reconvene at the same or some other place, and notice need not be given of any such adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the Corporation may transact any business that might have been transacted at the original meeting. If the adjournment is for more than 30 days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

1.6 Quorum. Except as otherwise provided by law, the Certificate of Incorporation of the Corporation or these Bylaws, at each meeting of stockholders, the presence in person or by proxy of the holders of shares of stock having a majority of the votes that could be cast by the holders of all outstanding shares of stock entitled to vote at the meeting shall be necessary and sufficient to constitute a quorum, and the stockholders present at any duly convened meeting may continue to do business until adjournment notwithstanding any withdrawal from the meeting of holders of shares counted in determining the existence of a quorum. In the absence of a quorum, the stockholders so present may, by majority vote, adjourn the meeting from time to time in the manner provided in Section 1.5 of these Bylaws until a quorum shall attend. Shares of its own stock belonging to the Corporation or any direct or indirect subsidiary of the Corporation shall neither be entitled to vote nor be counted for quorum purposes; provided, however, that the foregoing shall not limit the right of the Corporation to vote stock, including but not limited to its own stock, held by it in a fiduciary capacity.

1.7 Organization. Meetings of stockholders shall be presided over by the Chairman of the Board of Directors, if any, or in his or her absence by the Lead Director, if any, or in his or her absence by the Vice Chairman of the Board of the Directors, if any, or in his or her absence by the Chief Executive Officer, or in his or her absence by a chairman designated by the Board of Directors, or in the absence of such designation, by a chairman chosen at the meeting. The Board of Directors may appoint a non-executive Lead Director, who shall be a director of the Corporation and shall undertake duties prescribed herein and such other duties or responsibilities as the Board of Directors may assign. The Secretary shall act as secretary of the meeting, but in his or her absence the chairman of the meeting may appoint any person to act as secretary of the meeting.

1.8 Voting; Proxies. Except as otherwise provided by the Certificate of Incorporation, each stockholder entitled to vote at any meeting of stockholders shall be entitled to one vote for each share of stock held by such stockholder that has voting power upon the matter in question. Each stockholder entitled to vote at a meeting of stockholders may authorize another person or persons to act for such stockholder by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. A duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A stockholder may revoke any proxy that is not irrevocable by attending the meeting and voting in person or by filing an instrument in writing revoking the proxy or another duly executed proxy bearing a later date with the Secretary of the Corporation. Voting at meetings of stockholders need not be by written ballot. Directors shall be elected by a plurality of the votes entitled to be cast by the stockholders who are present in person or represented by proxy at the meeting and entitled to vote on the election of directors. All other elections and questions shall, unless otherwise provided by law, the Certificate of Incorporation or these Bylaws, be decided by a majority of the votes entitled to be cast by the stockholders who are present in person or represented by proxy at the meeting and entitled to vote. In the case of a matter submitted for a vote of the stockholders as to which a stockholder approval requirement is applicable under the stockholder approval policy of The Nasdaq Stock Market or any other exchange or quotation system on which the capital stock of the Corporation is quoted or traded, the requirements of Rule 16b-3 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or any provision of the Internal Revenue Code of 1986, as amended (the "Code"), in each case for which no higher voting requirement is specified by the Delaware General Corporation Law, as amended (the "DGCL"), the Certificate of Incorporation or these Bylaws, the vote required for approval shall be the requisite vote specified in such stockholder approval policy, Rule 16b-3 or Code provision, as the case may be (or the highest such requirement if more than one is applicable).

1.9 Fixing Date for Determination of Stockholders of Record. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date for stockholders entitled to receive notice of the meeting of stockholders, which shall not be more than 60 nor fewer than 10 days before the date of such meeting, nor more than 60 days prior to any other action. If the Board of Directors so fixes a date for the determination of stockholders entitled to receive notice of a meeting of stockholders, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board of Directors determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed: (1) the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held; and (2) the record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote.

1.10 List of Stockholders Entitled to Vote. The Secretary shall prepare and make, at least 10 days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting; provided, however, if the record date for determining the stockholders entitled to vote is fewer than 10 days before the meeting date, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder as of the record date. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least 10 days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof and may be inspected by any stockholder who is present. An original or duplicate stock ledger shall be the only evidence as to who are the stockholders entitled to examine the stock ledger, the list of stockholders or the books of the Corporation or to vote in person or by proxy at any meeting of stockholders.

1.11 Notice of Stockholder Business; Nominations.

(a) Annual Meetings of Stockholders. Nominations of one or more individuals to the Board of Directors (each, a "Nomination," and more than one, "Nominations") and the proposal of business other than Nominations ("Business") to be considered by the stockholders of the Corporation may be made at an annual meeting of stockholders only (1) pursuant to the Corporation's notice of meeting or any supplement thereto (provided, however, that reference in the Corporation's notice of meeting to the election of directors or to the election of members of the Board of Directors shall not include or be deemed to include Nominations), (2) by or at the direction of the Board of Directors or (3) by any stockholder of the Corporation who was a stockholder of record of the Corporation at the time the notice provided for in this Section 1.11 is delivered to the Secretary of the Corporation, who is entitled to vote at the meeting, and who complies with the notice procedures set forth in this Section 1.11. Subclause (3) above shall be the exclusive means for a stockholder to make nominations or submit business (other than matters properly brought under Rule 14a-8 (or any successor thereto) under the Exchange Act and indicated in the Corporation's notice of meeting) before an annual meeting of stockholders.

(b) Special Meetings of Stockholders. Only such Business shall be conducted at a special meeting of stockholders of the Corporation as shall have been brought before the meeting pursuant to the Corporation's notice of meeting; provided, however, that reference in the Corporation's notice of meeting to the election of directors or to the election of members of the Board of Directors shall not include or be deemed to include Nominations. Nominations may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting (1) by or at the direction of the Board of Directors or (2) provided that the Board of Directors has determined that directors shall be elected at such meeting, by any stockholder of the Corporation who is a stockholder of record at the time the notice provided for in this Section 1.11 is delivered to the Secretary of the Corporation, who is entitled to vote at the meeting and upon such election, and who complies with the notice procedures set forth in this Section 1.11. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board of Directors, any such stockholder entitled to vote in such election of directors may make Nominations of one or more individuals (as the case may be) for election to such positions as specified in the Corporation's notice of meeting, if the stockholder's notice required by Section 1.11(c)(1) shall be delivered to the Secretary of the Corporation at the principal executive offices of the Corporation in accordance with Section 1.11(c)(1)(E).

(c) Stockholder Nominations and Business. For Nominations and Business to be properly brought before an annual meeting by a stockholder pursuant to Section 1.11(a)(3), the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation in compliance with this Section 1.11, and any such proposed Business must constitute a proper matter for stockholder action. For Nominations to be properly brought before a special meeting by a stockholder pursuant to Section 1.11(b)(2), the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation in compliance with this Section 1.11.

(1) Stockholder Nominations.

(A) Only individuals subject to a Nomination made in compliance with the procedures set forth in this Section 1.11 shall be eligible for election at an annual or special meeting of stockholders of the Corporation, and any individuals subject to a Nomination not made in compliance with this Section 1.11 shall not be considered nor acted upon at such meeting of stockholders.

(B) For Nominations to be properly brought before an annual or special meeting of stockholders of the Corporation by a stockholder pursuant to Section 1.11(a)(3) or Section 1.11(b)(2), respectively, the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation at the principal executive offices of the Corporation pursuant to this Section 1.11. To be timely, the stockholder's notice must be delivered to the Secretary of the Corporation as provided in Section 1.11(c)(1)(C) or Section 1.11(c)(1)(D), in the case of an annual meeting of stockholders of the Corporation, and Section 1.11(c)(1)(E), in the case of a special meeting of stockholders of the Corporation, respectively.

(C) In the case of an annual meeting of stockholders of the Corporation, to be timely, any Nomination made pursuant to Section 1.11(a)(3) shall be delivered to the Secretary of the Corporation at the principal executive offices of the Corporation not later than the close of business on the 90th day, nor earlier than the close of business on the 120th day, prior to the first anniversary of the preceding year's annual meeting (provided, however, that in the event that the date of the annual meeting is more than 30 days before or more than 60 days after such anniversary date, notice by the stockholder must be so delivered not earlier than the close of business on the 120th day prior to such annual meeting and not later than the close of business on the later of the 90th day prior to such annual meeting or the 10th day following the day on which public announcement of the date of such meeting is first made by the Corporation). In no event shall the public announcement of an adjournment or postponement of an annual meeting of stockholders of the Corporation commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

(D) Notwithstanding Section 1.11(c)(1)(C), in the event that the number of directors to be elected to the Board of Directors at an annual meeting of stockholders of the Corporation is increased and there is no public announcement by the Corporation naming the nominees for the additional directorships at least 100 days prior to the first anniversary of the preceding year's annual meeting, the stockholder's notice required by this Section 1.11 shall also be considered timely, but only with respect to nominees for the additional directorships, if it shall be delivered to the Secretary of the Corporation at the principal executive offices of the Corporation not later than the close of business on the 10th day following the day on which such public announcement is first made by the Corporation.

(E) In the case of a special meeting of stockholders of the Corporation, to be timely, any Nomination made pursuant to Section 1.11(b)(2) shall be delivered to the Secretary of the Corporation at the principal executive offices of the Corporation not earlier than the close of business on the 120th day prior to such special meeting and not later than the close of business on the later of the 90th day prior to such special meeting or the 10th day following the day on which public announcement is first made of the date of such special meeting and of the nominees proposed by the Board of Directors to be elected at such special meeting. In no event shall the public announcement of an adjournment or postponement of a special meeting of stockholders of the Corporation commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

(F) To be in proper form, a stockholder's notice of Nomination(s) pursuant to Section 1.11(a)(3) or Section 1.11(b)(2) shall set forth: (i) as to any Nomination to be made by such stockholder, (a) all information relating to the individual subject to such Nomination that is required to be disclosed in solicitations of proxies for election of directors in an election contest, or is otherwise required, in each case pursuant to and in accordance with Section 14 under the Exchange Act and the rules and regulations promulgated thereunder, without regard to the application of the Exchange Act to either the Nomination or the Corporation and (b) such individual's written consent to being named in a proxy statement as a nominee and to serving as a director if elected; and (ii) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the Nomination is made (a) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner, (b) the class, series and number of shares of capital stock of the Corporation that are owned beneficially and of record by such stockholder and such beneficial owner, (c) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and such stockholder (or a qualified representative of the stockholder) intends to appear in person or by proxy at the meeting to propose such Nomination, (d) whether and the extent to which any hedging or other transaction or series of transactions has been entered into by or on behalf of, or any other agreement, arrangement or understanding (including any short position or any borrowing or lending of shares of stock) has been made, the effect or intent of which is to mitigate loss to or manage risk of stock price changes for, or to increase the voting power of, such stockholder or beneficial owner or any of its affiliates with respect to any share of stock of the Corporation, (e) a representation whether the stockholder or the beneficial owner, if any, intends or is part of a group that intends (1) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to elect the individual subject to the Nomination and/or (2) otherwise to solicit proxies from stockholders of the Corporation in support of such Nomination and (f) a description of any agreement, arrangement or understanding with respect to the Nomination between or among such stockholder, any of its affiliates or associates and any others acting in concert with any of the foregoing, including the individual subject to the Nomination. The Corporation may require any individual subject to such Nomination to furnish such other information as it may reasonably require to determine the eligibility of such individual to serve as a director of the Corporation.

(2) Stockholder Business.

(A) Only such Business shall be conducted at an annual or special meeting of stockholders of the Corporation as shall have been brought before such meeting in compliance with the procedures set forth in this Section 1.11, and any Business not brought in accordance with this Section 1.11 shall not be considered nor acted upon at such meeting of stockholders.

(B) In the case of an annual meeting of stockholders of the Corporation, to be timely, any such written notice of a proposal of Business pursuant to Section 1.11(a)(3) shall be delivered to the Secretary of the Corporation at the principal executive offices of the Corporation not later than the close of business on the 90th day nor earlier than the close of business on the 120th day prior to the first anniversary of the preceding year's annual meeting (provided, however, that in the event that the date of the annual meeting is more than 30 days before or more than 60 days after such anniversary date, notice by the stockholder must be so delivered not earlier than the close of business on the 120th day prior to such annual meeting and not later than the close of business on the later of the 90th day prior to such annual meeting or the 10th day following the day on which public announcement of the date of such meeting is first made by the Corporation). In no event shall the public announcement of an adjournment or postponement of an annual meeting of stockholders of the Corporation commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

(C) To be in proper form, a stockholder's notice of a proposal of Business pursuant to Section 1.11(a)(3) shall set forth: (i) as to the Business proposed by such stockholder, a brief description of the Business desired to be brought before the meeting, the text of the proposal or Business (including the text of any resolutions proposed for consideration and in the event that such Business includes a proposal to amend the Bylaws of the Corporation, the language of the proposed amendment), the reasons for conducting such Business at the meeting and any material interest in such Business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and (ii) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination is made (a) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner, (b) the class, series, and number of shares of capital stock of the Corporation that are owned beneficially and of record by such stockholder and such beneficial owner, (c) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and such stockholder (or a qualified representative of such stockholder) intends to appear in person or by proxy at the meeting to propose such Business, (d) whether and the extent to which any hedging or other transaction or series of transactions has been entered into by or on behalf of, or any other agreement, arrangement or understanding (including any short position or any borrowing or lending of shares of stock) has been made, the effect or intent of which is to mitigate loss to or manage risk of stock price changes for, or to increase the voting power of, such stockholder or beneficial owner or any of its affiliates with respect to any share of stock of the Corporation and (e) a representation whether the stockholder or the beneficial owner, if any, intends or is part of a group that intends (1) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposed Business and/or (2) otherwise to solicit proxies from stockholders of the Corporation in support of such Business.

(d) General.

(1) Except as otherwise provided by law, the chairman of the meeting of stockholders of the Corporation shall have the power and duty (a) to determine whether a Nomination or Business proposed to be brought before such meeting was made or proposed in accordance with the procedures set forth in this Section 1.11, and (b) if any proposed Nomination or Business was not made or proposed in compliance with this Section 1.11, to declare that such Nomination or Business shall be disregarded or that such proposed Nomination or Business shall not be considered or transacted. Notwithstanding the foregoing provisions of this Section 1.11, if a stockholder (or a qualified representative of such stockholder) does not appear at the annual or special meeting of stockholders of the Corporation to present a Nomination or Business, such Nomination or Business shall be disregarded and such Nomination or Business shall not be considered or transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation.

(2) For purposes of this Section 1.11, "public announcement" shall include disclosure in a press release reported by the a national news service or in a document publicly filed by the Corporation with the U.S. Securities and Exchange Commission.

(3) Nothing in this Section 1.11 shall be deemed to affect (a) the rights or obligations, if any, of stockholders of the Corporation to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 (or any successor thereto) under the Exchange Act or (b) the rights, if any, of the holders of any series of preferred stock of the Corporation to elect directors pursuant to any applicable provisions of the Certificate of Incorporation.

Article 2

Board of Directors

2.1 Number; Qualifications. Subject to the rights of the holders of any series of preferred stock to elect directors under specified circumstances, the number of directors of the Corporation shall be fixed from time to time by resolution of the Board of Directors; provided, however, no director's term shall be shortened by reason of a resolution reducing the number of directors. Directors must be natural persons who are 18 years of age or older but need not be residents of the State of Delaware, stockholders of the Corporation or citizens of the United States.

2.2 Staggered Board; Term. The Board of Directors shall be divided into three classes designated Class I, Class II and Class III. The number of directors elected to each class shall be as nearly equal in number as possible. The initial division of the Board of Directors into classes shall be made by a resolution or resolutions adopted by the Board of Directors. Each Class I director shall be elected to an initial term to expire at the 2019 annual meeting of stockholders, each Class II director shall be elected to an initial term to expire at the 2020 annual meeting of stockholders, and each Class III director shall be elected to an initial term to expire at the 2021 annual meeting of stockholders. Upon the expiration of the initial terms of office for each class of directors, the directors of each class shall be elected for a term of three years to serve until their successors are duly elected and qualified or until their earlier resignation, death or removal from office. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

2.3 Resignation; Vacancies. Any director may resign at any time upon written notice to the Corporation. Any newly created directorship or any vacancy occurring in the Board of Directors for any cause may be filled by a majority of the remaining members of the Board of Directors, although such majority is less than a quorum, or by the sole remaining director, and each director so chosen shall hold office until the next election of the class for which such director shall have been chosen and until his or her successor is elected and qualified.

2.4 Regular Meetings. Regular meetings of the Board of Directors may be held at such places within or without the State of Delaware and at such times as the Board of Directors may from time to time determine, and if so determined, notices thereof need not be given.

2.5 Special Meetings. Special meetings of the Board of Directors may be held at any time or place within or without the State of Delaware whenever called by the Chief Executive Officer, any Vice President, the Secretary, the Lead Director of the Board of Directors or by a majority of the Board of Directors. Notice of a special meeting of the Board of Directors shall be given by the person or persons calling the meeting at least 24 hours before the special meeting.

2.6 Telephonic Meetings Permitted. Members of the Board of Directors, or any committee designated by the Board of Directors, may participate in a meeting thereof by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this Section 2.6 shall constitute presence in person at such meeting.

2.7 Quorum; Vote Required for Action. At all meetings of the Board of Directors a majority of the whole Board of Directors shall constitute a quorum for the transaction of business. Except in cases in which the Certificate of Incorporation or these Bylaws otherwise provide, the vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

2.8 Organization. Meetings of the Board of Directors shall be presided over by the Chairman of the Board of Directors, if any, or in his or her absence by the Lead Director, if any, or in his or her absence by the Vice Chairman of the Board of Directors, if any, or in his or her absence by the Chief Executive Officer, or in their absence by a chairman chosen at the meeting. The Secretary shall act as secretary of the meeting, but in his or her absence the chairman of the meeting may appoint any person to act as secretary of the meeting.

2.9 Board of Directors Action by Written Consent Without a Meeting. Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a meeting, without prior notice and without a vote, if all members of the Board of Directors or such committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board of Directors or such committee. Such filing shall be in paper form if such minutes are maintained in paper form and shall be in electronic form if such minutes are maintained in electronic form.

2.10 Fees and Compensation of Directors. Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, the Board of Directors shall have the authority to fix the compensation of directors, or may delegate such authority to an appropriate committee.

Article 3

Committees

3.1 Committees. The Board of Directors may, by resolution passed by a majority of the whole Board of Directors, designate one or more committees, each committee to consist of one or more of the directors of the Corporation. The Board of Directors may designate two or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of the committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in place of any such absent or disqualified member. Any such committee, to the extent permitted by law and to the extent provided in the resolution of the Board of Directors, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation and may authorize the seal of the Corporation to be affixed to all pages that may require it.

3.2 Committee Rules. Unless the Board of Directors or the charter of any such committee otherwise provides, each committee designated by the Board of Directors may make, alter and repeal rules for the conduct of its business. In the absence of such rules each committee shall conduct its business in the same manner as the Board of Directors conducts its business pursuant to Article 2 of these Bylaws.

Article 4

Officers

4.1 Executive Officers; Election; Qualifications; Term of Office; Resignation; Removal; Vacancies. The officers of the Corporation shall be chosen by the Board of Directors and shall be a Chief Executive Officer, Chief Financial Officer and Secretary, and the Board of Directors may, if it so determines, choose a Chairman of the Board of Directors, a Lead Director (who shall not be an executive officer) and a Vice Chairman of the Board of Directors from among its members. The Board of Directors may also elect a General Counsel, a President, one or more Vice Presidents, Assistant Secretaries, Controllers, Assistant Controllers and such other officers as the Board of Directors deems necessary. Each such officer shall hold office for the term for which he or she is elected or appointed and until his or her successor has been elected or appointed and qualified or until his or her death or until he or she shall resign or until he or she shall have been removed in the manner hereinafter provided. Any officer may resign at any time upon written notice to the Corporation. The Board of Directors may remove any officer with or without cause at any time, but such removal shall be without prejudice to the contractual rights of such officer, if any, with the Corporation. Any number of offices may be held by the same person. Any vacancy occurring in any office of the Corporation by death, resignation, removal or otherwise may be filled for the unexpired portion of the term by the Board of Directors at any regular or special meeting.

4.2 Powers and Duties of Executive Officers. The officers of the Corporation shall have such powers and duties in the management of the Corporation as may be prescribed by the Board of Directors, and to the extent not so prescribed, they shall each have such powers and authority and perform such duties in the management of the property and affairs of the Corporation, subject to the control of the Board of Directors, as generally pertain to their respective offices. The Board of Directors may require any officer, agent or employee to give security for the faithful performance of his or her duties. Without limitation of the foregoing:

(a) Chairman of the Board of Directors. The Chairman of the Board, if any, shall be a director of the Corporation. The Chairman of the Board of Directors shall undertake duties prescribed herein and such other duties or responsibilities as the Board of Directors may assign.

(b) Lead Director of the Board of Directors. The Lead Director of the Board, if any, shall be a director of the Corporation, who is not also an officer of the Corporation. The Lead Director of the Board of Directors shall undertake duties prescribed herein and such other duties or responsibilities as the Board of Directors may assign.

(c) Chief Executive Officer. The Chief Executive Officer shall be the principal executive officer of the Corporation. Subject to the control of the Board of Directors, the Chief Executive Officer shall have general supervision over the business of the Corporation and shall have such other powers and duties as chief executive officers of corporations usually have or as the Board of Directors may assign.

(d) President. The President shall be the chief operations officer of the Corporation. Subject to the control of the Board of Directors, the President shall have general supervision over the business of the Corporation, to the extent not the responsibility of the Chief Executive Officer, and shall have such other powers and duties as presidents of corporations usually have or as the Board of Directors may assign.

(e) Chief Financial Officer. The Chief Financial Officer shall be the principal financial officer of the Corporation and shall have custody of all funds and securities of the Corporation and shall sign all instruments and documents as require his or her signature. The Chief Financial Officer shall undertake such other duties or responsibilities as the Board of Directors may assign.

(f) Vice President. Each Vice President shall have such powers and duties as the Board of Directors or the Chief Executive Officer may assign.

(g) Secretary. The Secretary shall issue notices of all meetings of the stockholders and the Board of Directors where notices of such meetings are required by law or these Bylaws and shall keep the minutes of such meetings. The Secretary shall sign such instruments and attest such documents as require his or her signature of attestation and affix the corporate seal thereto where appropriate.

4.3 Compensation. The salaries of the officers shall be fixed from time to time by the Board of Directors. Nothing contained herein shall preclude any officer from serving the Corporation in any other capacity, including that of director, or from serving any of its stockholders, subsidiaries or affiliated entities in any capacity and receiving proper compensation therefor.

4.4 Representation of Shares of Other Corporations. Unless otherwise directed by the Board of Directors, the Chief Executive Officer or any other person authorized by the Board of Directors or the Chief Executive Officer is authorized to vote, represent and exercise on behalf of the Corporation all rights incident to any and all shares of any other corporation or corporations standing in the name of the Corporation. The authority granted herein may be exercised either by such person directly or by any other person authorized to do so by proxy or power of attorney duly executed by such person having the authority.

Article 5

Stock

5.1 Certificates.

(a) The Corporation is authorized to issue shares of common stock of the Corporation in certificated or uncertificated form. The shares of the common stock of the Corporation shall be registered on the books of the Corporation in the order in which they shall be issued. Any certificates for shares of the common stock, and any other shares of capital stock of the Corporation represented by certificates, shall be numbered, shall be signed by (i) the Chairman of the Board of Directors, the President or a Vice President and (ii) the Secretary or an Assistant Secretary, or the Treasurer or an Assistant Treasurer. Any or all of the signatures on a certificate may be a facsimile signature. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he, she or it were such officer, transfer agent or registrar at the date of issue. Within a reasonable time after the issuance or transfer of uncertificated stock, the Corporation shall send, or cause to be sent, to the record owner thereof a written statement setting forth the name of the Corporation, the name of the stockholder, the number and class of shares and such other information as is required by law, including Section 151(f) of the DGCL. Any stock certificates issued and any notices given shall include such other information and legends as shall be required by law or necessary to give effect to any applicable transfer, voting or similar restrictions.

(b) No certificate representing shares of stock shall be issued until the full amount of consideration therefor has been paid, except as otherwise permitted by law.

(c) To the extent permitted by law, the Board of Directors may authorize the issuance of certificates or uncertificated shares representing fractions of a share of stock that shall entitle the holder to exercise voting rights, receive dividends and participate in liquidating distributions, in proportion to the fractional holdings; or it may authorize the payment in cash of the fair value of fractions of a share of stock as of the time when those entitled to receive such fractions are determined; or it may authorize the issuance, subject to such conditions as may be permitted by law, of scrip in registered form over the signature of an officer or agent of the Corporation, exchangeable as therein provided for full shares of stock, but such scrip shall not entitle the holder to any rights of a stockholder, except as therein provided.

5.2 Lost, Stolen or Destroyed Stock Certificates; Issuance of New Certificates. The Corporation may issue a new certificate of stock in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the Corporation may require the owner of the lost, stolen or destroyed certificate, or his or her legal representative, to give the Corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate. If shares represented by a stock certificate alleged to have been lost, stolen or destroyed have become uncertificated shares, the Corporation may, in lieu of issuing a new certificate, cause such shares to be reflected on its books as uncertificated shares and may require the owner of the lost, stolen or destroyed certificate, or his or her legal representative, to give the Corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate.

5.3 Transfer of Shares.

(a) Transfers of shares shall be made upon the books of the Corporation (i) only by the holder of record thereof, or by a duly authorized agent, transferee or legal representative and (ii) in the case of certificated shares, upon the surrender to the Corporation of the certificate or certificates for such shares duly endorsed or accompanied by proper evidence of succession, assignment, or authority to transfer, it shall be the duty of the Corporation to issue a new certificate to the person entitled thereto, cancel the old certificate and record the transaction upon its books.

(b) The Corporation shall be entitled to treat the holder of record of any share or shares of stock as the absolute owner thereof for all purposes and, accordingly, shall not be bound to recognize any legal, equitable or other claim to, or interest in, such share or shares of stock on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise expressly provided by law.

5 . 4 Transfer Agent; Registrar . The Board of Directors may appoint a transfer agent and one or more co-transfer agents and registrar and one or more co-registrars and may make, or authorize any such agent to make, all such rules and regulations deemed expedient concerning the issue, transfer and registration of shares of stock of the Corporation.

Article 6

Indemnification

6.1 Right to Indemnification. The Corporation shall indemnify and hold harmless, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment), any person who was or is made or is threatened to be made a party or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a "Proceeding"), by reason of the fact that he or she, or a person for whom he or she is the legal representative, is or was a director or officer of the Corporation or, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee, member, trustee, partner, manager, representative or agent of another corporation or of a partnership, limited liability company, joint venture, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans maintained or sponsored by the Corporation (an "Indemnitee"), whether the basis in such Proceeding is alleged action in an official capacity as director, officer, employee, member, trustee, partner, manager, representative or agent or in any other capacity while serving as such, against all expense, liability and loss (including attorneys' fees, judgments, fines, excise taxes or penalties, and amounts paid in settlement) incurred or suffered by such Indemnitee in connection therewith, if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. The Corporation shall indemnify an Indemnitee in connection with a Proceeding (or part thereof) initiated by such Indemnitee only if the initiation of such Proceeding (or part thereof) by the Indemnitee was authorized by the Board of Directors.

6.2 Prepayment of Expenses. The Corporation shall pay the expenses (including attorneys' fees) incurred by an Indemnitee in defending any Proceeding in advance of its final disposition; provided, however, that the payment of expenses incurred by a director or officer in advance of the final disposition of the Proceeding shall be made only upon receipt of an undertaking (an "Undertaking") by or on behalf of the director or officer to repay all amounts advanced if it should be ultimately determined that the director or officer is not entitled to be indemnified under this Article or otherwise.

6.3 Claims.

(a) To obtain indemnification under this Article 6, an Indemnitee shall submit to the Corporation a written request, including therein or therewith such documentation and information as is reasonably available to the Indemnitee and is reasonably necessary to determine whether and to what extent the claimant is entitled to indemnification. Upon written request by an Indemnitee for indemnification pursuant to the first sentence of this Section 6.3(a), a determination, if required by applicable law, with respect to the Indemnitee's entitlement thereto shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of directors who are not and were not parties to the matter in respect of which indemnification is sought by Indemnitee ("Disinterested Directors"), (2) if a quorum of the Board of Directors consisting of Disinterested Directors is not obtainable or, even if obtainable, such quorum of Disinterested Directors so directs, by less than a quorum of the Board of Directors consisting of Disinterested Directors or (3) if a majority of Disinterested Directors so directs, by the stockholders of the Corporation.

(b) If a claim for indemnification or payment of expenses under this Article 6 is not paid in full by the Corporation within 30 days after a written claim therefor by the Indemnitee has been received by the Corporation, the Indemnitee may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expenses of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any Proceeding in advance of its final disposition where the required Undertaking, if any is required, has been tendered to the Corporation) that the Indemnitee has not met the standard of conduct that makes it permissible under the DGCL for the Corporation to indemnify the Indemnitee for the amount claimed. Neither the failure of the Corporation (including its Board of Directors or stockholders) to have made a determination prior to the commencement of such action that indemnification of the Indemnitee is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Corporation (including its Board of Directors or stockholders) that the Indemnitee has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the Indemnitee has not met the applicable standard of conduct. If a determination shall have been made pursuant to Section 6.3(b) that the claimant is entitled to indemnification, the Corporation shall be bound by such determination in any judicial proceeding commenced pursuant to this Section 6.3(b). The Corporation shall be precluded from asserting in any judicial proceeding commenced pursuant to this Section 6.3(b) that the procedures and presumptions of this Article 6 are not valid, binding and enforceable and shall stipulate in such proceeding that the Corporation is bound by all the provisions of this Article 6.

6.4 Employees and Agents. The Corporation may, to the extent authorized from time to time by the Board of Directors, grant rights to indemnification, and rights to be paid by the Corporation the expenses incurred in defending any proceeding in advance of its final disposition, to any current or former employee or agent of the Corporation to the fullest extent of the provisions of this Article 6 with respect to the indemnification and advancement of expenses of current or former directors and officers of the Corporation.

6.5 Nonexclusivity of Rights. The rights conferred on any person by this Article 6 shall not be exclusive of any other rights that such person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, these Bylaws, agreement, vote of stockholders or Disinterested Directors or otherwise.

6.6 Other Indemnification. The Corporation's obligation, if any, to indemnify any person who was or is serving at its request as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, enterprise or nonprofit entity shall be reduced by any amount such person may collect as indemnification from such other corporation, partnership, joint venture, trust, enterprise or nonprofit enterprise.

6.7 Nature of Indemnification Rights; Amendment or Repeal. Each person who was, is, or becomes a director or officer shall be deemed to have served or to have continued to serve in such capacity in reliance upon the indemnity provided for in this Article 6. Such rights shall be deemed to have vested at the time such person becomes or became a director or officer of the Corporation, and such rights shall continue as to an Indemnitee who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the Indemnitee's heirs, executors and administrators. Any amendment, modification, alteration or repeal of this Article 6 that in any way diminishes, limits, restricts, adversely affects or eliminates any right of an Indemnitee or his or her successors to indemnification, advancement of expenses or otherwise shall be prospective only and shall not in any way diminish, limit, restrict, adversely affect or eliminate any such right with respect to any actual or alleged state of facts, occurrence, action or omission then or previously existing, or any action, suit or proceeding previously or thereafter brought or threatened based in whole or in part upon any such actual or alleged state of facts, occurrence, action or omission.

6.8 Enforceability. If any provision or provisions of this Article 6 shall be held to be invalid, illegal or unenforceable for any reason whatsoever, then (1) the validity, legality and enforceability of the remaining provisions of this Article 6 (including, without limitation, each portion of any Section or paragraph of this Article 6 containing any such provision held to be invalid, illegal or unenforceable, that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby, and (2) to the fullest extent possible, the provisions of this Article 6 (including, without limitation, each such portion of any Section or paragraph of this Article 6 containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

6.9 Insurance for Indemnification. The Corporation may purchase and maintain, at its expense, insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Corporation would have the power to indemnify such person against such liability under the provisions of Section 145 of the DGCL. To the extent that the Corporation maintains any policy or policies providing such insurance, each such current or former director or officer, and each such agent or employee to which rights to indemnification have been granted as provided in Section 6.4, shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage thereunder for any such current or former director, officer, employee or agent.

6.10 Limitation on Indemnification. Notwithstanding anything contained in this Article 6 to the contrary, except for proceedings to enforce rights to indemnification (which shall be governed by Section 6.3), the Corporation shall not be obligated to indemnify any director or officer (or his or her heirs, executors or personal or legal representatives) or advance expenses in connection with a proceeding (or part thereof) initiated by such person unless such proceeding (or part thereof) was authorized or consented to by the Board of Directors.

Article 7

Miscellaneous

7.1 Fiscal Year. The fiscal year of the Corporation shall be the calendar year, unless otherwise determined by resolution of the Board of Directors.

7.2 Seal. The corporate seal shall have the name of the Corporation inscribed thereon and shall be in such form as may be approved from time to time by the Board of Directors.

7.3 Notices. Except as may otherwise be required by law, the Certificate of Incorporation or these Bylaws, any notice to the Corporation, any stockholder or director must be in writing and may be transmitted by: mail, private carrier or personal delivery; telegraph or teletype; or telephone, wire or wireless equipment that transmits a facsimile of the notice. Notwithstanding the foregoing, and without limiting the manner by which notice otherwise may be given effectively to stockholders pursuant to the DGCL, the Certificate of Incorporation or these Bylaws, any notice to stockholders given by the Corporation under any provision of the DGCL, the Certificate of Incorporation or these Bylaws shall be effective if given by a form of electronic transmission consented to by the stockholder to whom the notice is given. Any such consent shall be revocable by the stockholder by written notice to the Corporation. Any such consent shall be deemed revoked if:

(a) the Corporation is unable to deliver by electronic transmission two consecutive notices given by the Corporation in accordance with such consent; and

(b) such inability becomes known to the Secretary or an Assistant Secretary of the Corporation or to the transfer agent, or other person responsible for the giving of notice.

Inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action. An "electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

Written notice by the Corporation to its stockholders shall be deemed effective when mailed, if mailed with first-class postage prepaid and correctly addressed to the stockholder's address shown in the Corporation's current record of stockholders. Except as set forth in the previous sentence, written notice shall be deemed effective at the earliest of the following: (a) when received; (b) five days after its deposit in the United States mail, as evidenced by the postmark, if mailed with first-class postage, prepaid and correctly addressed; (c) on the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and receipt is signed by or on behalf of the addressee; (d) when directed to the stockholder, if by electronic transmission (other than as set forth in (e) below); or (e) if sent to a stockholder's address, telephone number or other number appearing on the records of the Corporation, when dispatched by telegraph, teletype or facsimile equipment.

7.4 Waiver of Notice of Meetings of Stockholders, Directors and Committees. Any written waiver of notice, signed by the person entitled to notice, or waiver by electronic transmission by the person or persons entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of any regular or special meeting of the stockholders, directors or members of a committee of directors need be specified in any written waiver of notice.

7.5 Interested Directors; Quorum. No contract or transaction between the Corporation and one or more of its directors or officers, or between the Corporation and any other corporation, partnership, association or other organization in which one or more of its directors or officers are directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the Board of Directors or committee thereof that authorizes the contract or transaction, or solely because his, her or their votes are counted for such purpose, if: (a) the material facts as to his or her relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee, and the Board of Directors or committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of the Disinterested Directors, even though the Disinterested Directors be less than a quorum; (b) the material facts as to his or her relationship or interest and as to the contract or transaction are disclosed or are known to the stockholders entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the stockholders; or (c) the contract or transaction is fair as to the Corporation as of the time it is authorized, approved or ratified by the Board of Directors, a committee thereof, or the stockholders. All directors, including interested directors, may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee that authorizes the contract or transaction.

7.6 Form of Records. Any records maintained by the Corporation in the regular course of its business, including its stock ledger, books of account and minute books, may be kept on, or be in the form of, punch cards, magnetic tape, photographs, hard drives or any other information storage device, provided that the records so kept can be converted into clearly legible form within a reasonable time. The Corporation shall so convert any records so kept upon the request of any person entitled to inspect the same.

7.7 Amendment of Bylaws.

(a) These Bylaws may only be amended or repealed by the stockholders at an annual or special meeting of the stockholders, the notice for which designates that an amendment or repeal of one or more of such sections is to be considered, only by an affirmative vote of the stockholders holding a majority in interest of all shares entitled to vote upon such amendment or repeal, voting as a single class; provided, however, that Article 1, Section 2.2, Article 6 and Section 7.7 of these Bylaws may only be amended or repealed by the stockholders at an annual or special meeting of the stockholders, the notice for which designates that an amendment or repeal of one or more of such sections is to be considered, only by an affirmative vote of the stockholders holding at least 66-2/3 percent of the voting power of the stockholders entitled to vote at an election for directors of the Corporation, voting as a single class.

(b) The Board of Directors shall have the power to amend or repeal these Bylaws of, or adopt new bylaws for, the Corporation. Any such bylaws, or any alternation, amendment or repeal of these Bylaws, may be subsequently amended or repealed by the stockholders as provided in Section 7.7(a) of these Bylaws.

* * * * *

Exhibit 3.3

Execution Version

CERTIFICATE OF DESIGNATIONS, PREFERENCES AND RIGHTS

OF

SERIES A ZERO-DIVIDEND CONVERTIBLE PERPETUAL PREFERRED STOCK

OF

CONCRETE PUMPING HOLDINGS, INC.

(Pursuant to Section 151 of the Delaware General Corporation Law)

Concrete Pumping Holdings, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certifies that, pursuant to authority vested in the Board of Directors of the Corporation by Article IV of the Amended and Restated Certificate of Incorporation of the Corporation (the "Certificate of Incorporation"), the following resolutions were adopted on December 4, 2018 by the Board of Directors of the Corporation (the "Board") pursuant to Section 151 of the Delaware General Corporation Law:

WHEREAS the Corporation will enter into a potential purchase (the "Equity Investment") of Series A Zero-Dividend Convertible Perpetual Preferred Stock (the "Preferred Stock") of the Corporation with an aggregate purchase price of $25,000,000 by Nuveen Alternatives Advisors, LLC and its affiliates;

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby approves and authorizes the Equity Investment; and

FURTHER RESOLVED that the shares of Preferred Stock issued in connection with the Equity Investment shall have the voting powers, designations, preferences and other special rights, and the qualifications, limitations and restrictions thereof, set forth below:

1. Certain Definitions.

As used in this Certificate of Designations, Preferences and Rights of Series A Zero-Dividend Convertible Perpetual Preferred Stock (the "Preferred Stock") of Concrete Pumping Holdings, Inc. (the "Certification of Designations"), the following terms shall have the respective meanings set forth below:

"ABL Facility" means that certain $60,000,000 senior secured ABL facility by and among Brundage-Bone Concrete Pumping Inc., Eco-Pan, Inc., Camfaud Concrete Pumps Limited, South Coast Concrete Pumping Limited, Premier Concrete Pumping Limited and Reilly Concrete Pumping Limited, the guarantors party thereto and Wells Fargo Bank, National Association.

"Affiliate" means, with respect to any specified Person, any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such specified Person; provided, that the Corporation and its subsidiaries shall not be deemed to be Affiliates of any Holder or any of their Affiliates. For the purposes of this definition, "control", when used with respect to any specified Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Bloomberg" means Bloomberg Financial Markets and its successors.

"Board" means the board of directors of the Corporation.

"Business Day" means any day except a Saturday, a Sunday or other day on which the U.S. Securities and Exchange Commission or banking institutions in New York, New York are authorized or required by law, regulation or executive order to be closed.

"Closing Date" means the date of the closing of the purchase and sale of Preferred Stock pursuant to Section 3 of the Subscription Agreement.

"Closing Price" of the Common Stock on any date of determination means the closing sale price or, if no closing sale price is reported, the last reported sale price, of shares of Common Stock on The Nasdaq Stock Market on such date. If the Common Stock is not traded on The Nasdaq Stock Market on any date of determination, the Closing Price of the Common Stock on such date of determination means the closing sale price as reported in the composite transactions for the principal United States securities exchange or automated quotation system on which the Common Stock is so listed or quoted, or, if no closing sale price is reported, the last reported sale price on the principal United States securities exchange or automated quotation system on which the Common Stock is so listed or quoted, or if the Common Stock is not so listed or quoted on a United States securities exchange or automated quotation system, the last quoted bid price for the Common Stock in the over-the-counter market as reported by OTC Market Group, Inc. or any similar organization, or, if that bid price is not available, the market price of the Common Stock on that date as determined by an Independent Financial Advisor retained by the Corporation for such purpose.

"Common Stock" means the common stock, par value $0.0001 per share, of the Corporation, including the stock into which the Preferred Stock is convertible, and any securities into which the Common Stock may be reclassified.

"Common Stock Equivalents" means any securities of the Corporation or its subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, rights, options, warrants or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

"Conversion Rate" means, initially, 1 share of Common Stock per share of Preferred Stock (as may be adjusted pursuant to Section 9(a)(i) hereof).

"Conversion Shares" means the shares of Common Stock into which the Preferred Stock is convertible.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, or any successor statute, and the rules and regulations promulgated thereunder.

"Holder" or "Holders" means the holder or holders of the Preferred Stock.

"Independent Financial Advisor" means an accounting, appraisal, investment banking firm or consultant of nationally recognized standing; provided, however, that such firm or consultant is not an Affiliate of the Corporation and is reasonably acceptable to the Required Holders.

"Junior Debt" means any borrowed money indebtedness incurred by the Corporation after the Closing Date (other than borrowings under the Term Loan and the ABL Facility) that ranks junior to the Term Loan and the ABL Facility.

"Junior Securities" means the Common Stock, any other class or series of equity securities of the Corporation now or hereafter authorized, issued or outstanding that, by its terms, does not expressly provide that it ranks senior to or *pari passu* with the Preferred Stock in liquidation preference and all other Common Stock Equivalents of the Corporation other than Parity Stock or those securities which are explicitly senior to the Preferred Stock in liquidation preference.

"Liquidation Preference" means (i) $25,000,000 plus (ii) an additional cumulative amount that will accrue at an annual rate of 7.0% (as may be adjusted as described below, the "Additional Liquidation Preference Rate") beginning on the Closing Date through the date of calculation, expressed as a per-share amount calculated based on 2,450,980 designated shares of Preferred Stock (i.e., $10.20 per share, before taking into account the Additional Liquidation Preference Rate).

"Parity Stock**"** means any class or series of capital stock hereafter authorized that expressly ranks on a parity basis with the Preferred Stock as to dividend rights, rights of redemption and rights on the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation. "Parity Stock" shall include any rights, options or warrants exercisable or exchangeable for or convertible into Parity Stock.

"Principal Market" means The Nasdaq Stock Market.

"Required Holders" means, as of any date, the holders of at least a majority of the Preferred Stock outstanding as of such date.

"Subscription Agreement" means that certain Subscription Agreement, dated as of September 7, 2018, by and among the Corporation and the investor party thereto.

"Term Loan" means that certain $350,000,000 senior secured term loan B facility by and among Concrete Pumping Holdings, Inc., the guarantors thereto, Credit Suisse Loan Funding LLC, the other lenders thereto and Credit Suisse AG, as administrative agent.

"Trading Day" means any day on which the Common Stock is traded on the Principal Market, or, if the Principal Market is not the principal trading market for the Common Stock, then on the principal securities exchange or securities market on which the Common Stock is then traded; provided, that "Trading Day" shall not include any day on which the Common Stock is scheduled to trade on such exchange or market for less than 4.5 hours or any day that the Common Stock is suspended from trading during the final hour of trading on such exchange or market (or if such exchange or market does not designate in advance the closing time of trading on such exchange or market, then during the hour ending at 4:00:00 p.m., New York City time).

"VWAP" per share of Common Stock on any Trading Day means the per share volume-weighted average price as displayed under the heading Bloomberg VWAP on Bloomberg (or, if Bloomberg ceases to publish such price, any successor service reasonably chosen by the Corporation) page "VAP" (or its equivalent successor if such page is not available) in respect of the period from the open of trading on the relevant Trading Day until the close of trading on such Trading Day (or if such volume-weighted average price is unavailable, the market price of one share of Common Stock on such Trading Day determined, using a volume-weighted average method, by an Independent Financial Advisor retained by the Corporation for such purpose).

2. Number and Designation. The Preferred Stock shall be designated as Series A Zero-Dividend Convertible Perpetual Preferred Stock of the Corporation and the number of shares so designated shall be 2,450,980 shares. Each share of Preferred Stock shall have a par value of $0.0001 per share.

3. Dividends. Holders of shares of Preferred Stock shall not be entitled to any dividend, whether payable in cash, property or shares of Common Stock.

4. Liquidation.

(a) Upon any liquidation, dissolution or winding-up of the Corporation, whether voluntary or involuntary, or any consolidation, merger or sale of all or substantially all of the assets of the Corporation (a "Liquidation"), the Holders of shares of Preferred Stock then outstanding shall be entitled to be paid in cash out of the assets of the Corporation available for distribution to its stockholders, before any distribution or payment shall be made to the holders of any Junior Securities, an amount equal to the Liquidation Preference (expressed as a per-share amount) multiplied by the number of shares of Preferred Stock held by such Holders. If the assets of the Corporation are not sufficient to pay in full such amounts, then the assets to be distributed to the Holders shall be ratably distributed among such Holders in accordance with the respective amounts that would be payable on such shares if all amounts payable thereon were paid in full. The Corporation shall mail written notice of any such Liquidation to each Holder not less than 45 days prior to the payment date stated therein.

(b) In the event that the Corporation incurs any Junior Debt, then to the extent that, after giving effect to the incurrence of such additional Junior Debt, the pro forma Total Leverage Ratio (as defined in the Term Loan) as of the most recent quarterly balance sheet date of the Corporation shall exceed five times EBITDA (as defined in the Term Loan) for the period of four calendar quarters ending on such balance sheet date, the Additional Liquidation Preference Rate (a) shall be increased by 2.0% beginning on the first day of the first calendar quarter following the incurrence of such Junior Debt and (b) thereafter, shall be decreased by 2.0% beginning on the first day of the first calendar quarter following such time as the pro forma Total Leverage Ratio no longer exceeds five times EBITDA (calculated as of the last day of the previous calendar quarter); provided, that, for the avoidance of doubt, the Additional Liquidation Preference Rate shall not be lower than 7.0%. Notwithstanding the foregoing, the Corporation shall be permitted to draw on the ABL Facility and any incremental facilities permitted under the Term Loan to the fullest extent permitted by those documents regardless of the impact that such additional borrowings may have on the Total Leverage Ratio.

5. Right of the Holders to Convert.

(a) On or after the date that is six calendar months following the Closing Date, each Holder shall have the right, at such Holder's option, subject to the conversion procedures set forth in Section 8(a), to convert all of the shares of such Holder's Preferred Stock into that number of shares of Common Stock determined by multiplying (i) the number of shares of Preferred Stock being converted by (ii) the Conversion Rate in effect on the applicable Conversion Date (as defined herein).

(b) Any shares of Common Stock issued upon conversion of Preferred Stock (i) shall be duly authorized, validly issued, unencumbered, fully paid and nonassessable, (ii) shall rank *pari passu* with the other shares of Common Stock outstanding from time to time and (iii) shall be approved for listing on The Nasdaq Stock Market if shares of Common Stock generally are so listed (or another U.S. national securities exchange on which the Common Stock is then listed).

6. Mandatory Conversion by the Corporation.

(a) At any time following such time that, for any period of 30 consecutive Trading Days, the VWAP per share of the Common Stock is equal to or greater than $13.00 (as may be adjusted pursuant to Section 9(a)(ii), the "Mandatory Conversion Threshold"), the Corporation shall have the right, at its option, to cause all, but not less than all, of the outstanding shares of the Preferred Stock to be converted into shares of Common Stock equal to the number of shares the Holder would have received upon a conversion effected pursuant to Section 5(a) (collectively, a "Mandatory Conversion").

(b) In order to effect a Mandatory Conversion, the Corporation shall send, by e-mail or overnight courier, to the Holders as they appear in the records of the Corporation a notice of such conversion (such notice, a "Notice of Mandatory Conversion"). The Conversion Date for such Mandatory Conversion (the "Mandatory Conversion Date") shall be a date selected by the Corporation and shall be no less than ten (10) Business Days and no greater than twenty (20) Business Days after the date on which the Corporation provides such Notice of Mandatory Conversion. In addition to any information required by applicable law or regulation, the Notice of Mandatory Conversion shall state, as appropriate:

(i) the Mandatory Conversion Date; and

(ii) the Conversion Rate as in effect on the Mandatory Conversion Date and the number of shares of Common Stock to be issued upon conversion of each share of Preferred Stock.

(c) Any shares of Common Stock issued upon conversion of Preferred Stock (i) shall be duly authorized, validly issued, unencumbered, fully paid and nonassessable, (ii) shall rank *pari passu* with the other shares of Common Stock outstanding from time to time and (iii) shall be approved for listing on The Nasdaq Stock Market if shares of Common Stock generally are so listed (or another U.S. national securities exchange on which the Common Stock is then listed).

7. Redemption at Option of the Corporation.

(a) The Corporation may, at its option, redeem, in whole or in part, at any time on or following the fourth anniversary of the Closing Date, any shares of Preferred Stock at the time outstanding, by delivery of written notice to each Holder (the "Corporation Redemption Notice") at least fifteen (15) Business Days prior to the proposed date of redemption (the "Corporation Redemption Date") set forth in the Corporation Redemption Notice, at a redemption price to paid in cash for each share of Preferred Stock redeemed equal to the then applicable Liquidation Preference (expressed as a per-share amount).

(b) For the avoidance of doubt, following receipt of the Corporation Redemption Notice, a Holder may, at its option, convert each share of such Holder's Preferred Stock pursuant to Section 5(a) at any time prior to the Corporation Redemption Date subject to the conversion procedures set forth in Section 8(a).

8. Conversion Procedures and Effect of Conversion.

(a) Conversion Procedure. A Holder must do each of the following in order to convert shares of Preferred Stock pursuant to this Section 8(a): (i) in the case of a conversion pursuant to Section 5(a), complete and manually sign the conversion notice in the form attached hereto as Exhibit A (the "Conversion Notice") (which Conversion Notice may be conditioned on the completion of a corporate transaction as specified in such Conversion Notice), and deliver such notice to the Corporation; (ii) deliver to the Corporation the certificate or certificates (if any) representing the shares of Preferred Stock to be converted; (iii) if reasonably required, furnish appropriate endorsements and transfer documents; and (iv) if reasonably required, pay any stock transfer, documentary, stamp or similar taxes not payable by the Corporation pursuant to Section 13. The foregoing clauses (ii), (iii) and (iv) shall be the only conditions applicable to the Holders in respect of the issuance of shares of Common Stock to the Holders in the event of a Mandatory Conversion pursuant to Section 6.

The "Conversion Date" means (A) with respect to conversion of any shares of Preferred Stock at the option of any Holder pursuant to Section 5(a), the date on which such Holder complies with the procedures in this Section 8(a) and (B) with respect to a Mandatory Conversion pursuant to Section 6(a), the Mandatory Conversion Date.

(b) Effect of Conversion. Upon conversion, such shares of Preferred Stock shall be deemed cancelled and cease to be outstanding.

(c) Record Holder of Underlying Securities as of Conversion Date. The Person or Persons entitled to receive the Common Stock issuable upon conversion of the Preferred Stock on a Conversion Date shall be treated for all purposes as the record holder(s) of such shares of Common Stock as of the close of business on such Conversion Date. As promptly as practicable on or after the Conversion Date and upon compliance by the applicable Holder with the relevant procedures contained in Section 8(a) (and in any event no later than two (2) Trading Days thereafter), the Corporation shall issue the number of whole shares of Common Stock issuable upon conversion. Such delivery of shares of Common Stock shall be made, at the option of the Corporation, in certificated form or by book-entry. Any such certificate or certificates shall be delivered by the Corporation to the appropriate Holder on a book-entry basis or by mailing certificates evidencing the shares to the Holders at their respective addresses as set forth in the Conversion Notice (in the case of a conversion pursuant to Section 5(a)) or in the records of the Corporation (in the case of a Mandatory Conversion pursuant to Section 6). In the event that a Holder shall not by written notice designate the name in which shares of Common Stock to be delivered upon conversion of shares of Preferred Stock should be registered, or the manner in which such shares should be delivered, the Corporation shall be entitled to register and deliver such shares in the name of the Holder and in the manner shown on the records of the Corporation.

(d) No Fractional Shares. No fractional shares of Common Stock shall be issued upon conversion of the Preferred Stock into Common Stock. In the event a fractional share of Common Stock would be issued on conversion, the number of shares of Common Stock to be issued shall be rounded down to the nearest whole share and a cash payment for the fractional share (at the then-current market value, reasonably determined) paid to the Holder.

9. Adjustment of Conversion Rate and Mandatory Conversion Threshold.

(a) If the Corporation at any time on or after the Closing Date subdivides or combines (by any stock split, stock dividend, recapitalization, reorganization, scheme, arrangement or otherwise) one or more classes of its outstanding shares of Common Stock into a greater or smaller number of shares:

(i) the Conversion Rate in effect immediately prior to such subdivision or combination will be adjusted by multiplying such Conversion Rate by a fraction the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event; and

(ii) the Mandatory Conversion Threshold in effect immediately prior to such subdivision or combination will be equitably adjusted.

(b) Any adjustment under this Section 9 shall become effective at the close of business on the date the subdivision or combination becomes effective.

10. Notices. In case at any time:

(i) the Corporation shall offer for subscription pro rata to the holders of its Common Stock any additional shares of such stock of any class or other rights;

(ii) there shall be any capital reorganization or reclassification of the capital stock of the Corporation, or a consolidation or merger of the Corporation with, or a sale of all or substantially all its assets to, another corporation;

(iii) there shall be a voluntary or involuntary dissolution, liquidation or winding up of the Corporation; or

(iv) there shall be an adjustment of the Conversion Rate or the Mandatory Conversion Threshold;

then, in any one or more of said cases, the Corporation shall give, by first class mail, postage prepaid, addressed to each Holder at the address of such Holder as shown on the books of the Corporation, (a) at least fifteen (15) days prior written notice of the date on which the books of the Corporation shall close or a record shall be taken for any such dividend, distribution or subscription rights or for determining rights to vote in respect of any such reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding up, (b) in the case of any such reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding up, at least fifteen (15) days prior written notice of the date when the same shall take place and (c) in the case of an adjustment of the Conversion Rate or the Mandatory Conversion Threshold, written notice of the now effective Conversion Rate or Mandatory Conversion Threshold, as applicable, within fifteen (15) days of the effectiveness of such adjustment. Such notice in accordance with the foregoing clause (a) shall also specify, in the case of any such dividend, distribution or subscription rights, the date on which the holders of Common Stock shall be entitled thereto, and such notice in accordance with the foregoing clause (b) shall also specify the date on which the holders of Common Stock shall be entitled to exchange their Common Stock for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding up, as the case may be.

11. Stock to be Reserved. The Corporation will at all times reserve and keep available out of its authorized but unissued Common Stock solely for the purpose of issuance upon the conversion of the Preferred Stock as herein provided, such number of shares of Common Stock as shall then be issuable upon the conversion of all outstanding shares or fractions of shares of Preferred Stock. All shares of Common Stock which shall be so issued shall be duly and validly issued and fully paid and nonassessable and free from all liens, encumbrances, duties and charges arising out of or by reason of the issue thereof (including, without limitation, in respect of taxes), and shall be approved for listing on The Nasdaq Stock Market (or any other national securities exchange on which the Common Stock is listed). The Corporation will take all such action within its control as may be necessary on its part to assure that all such shares of Common Stock may be so issued without violation of any applicable law or regulation, or of any requirements of any national securities exchange upon which the Common Stock of the Corporation may be listed.

12. Effect of Reacquisition of Shares Upon Redemption, Repurchase, Conversion or Otherwise. Shares of Preferred Stock that have been issued and reacquired in any manner, whether by redemption, repurchase or otherwise or upon any conversion of shares of Preferred Stock to Common Stock, shall thereupon be retired and shall have the status of authorized and unissued shares of preferred stock of the Corporation undesignated as to series, and, subject to the terms and conditions of this Certificate of Designations, may be redesignated as any series of preferred stock of the Corporation and reissued.

13. Issue Taxes and Fees. The issuance of certificates, if any, for shares of Common Stock upon conversion of the Preferred Stock shall be made without charge to the holders thereof for any (a) issuance tax, stamp tax, transfer tax, duty or charge in respect thereof; provided, that the Corporation shall not be required to pay any tax, duty or charge which may be payable in respect of any transfer involved in the issuance and delivery of any certificate in a name other than that of the holder of the Preferred Stock which is being converted or (b) fees (including fees of the transfer agent or The Depository Trust Company).

14. Closing of Books. The Corporation will at no time close its transfer books against the transfer of any Preferred Stock or of any shares of Common Stock issued or issuable upon the conversion of any shares of Preferred Stock in any manner which interferes with the timely conversion of such Preferred Stock; provided, however, nothing herein shall be construed to prevent the Corporation from setting record dates for the holders of its securities.

15. Voting. In addition to any class voting rights provided by law, the Holders of Preferred Stock shall have the right to vote together with the holders of Common Stock as a single class on any matter on which the holders of Common Stock are entitled to vote (excluding the election of directors). Other than as contemplated by the foregoing sentence, Holders of Preferred Stock shall have no class voting rights whatsoever. With respect to the voting rights of the Holders of Preferred Stock, each Holder of Preferred Stock shall be entitled to cast one vote for each share of Common Stock that would be issuable to such Holder upon the conversion of all the shares of Preferred Stock held by such Holder on the record date for the determination of stockholders entitled to vote.

16. Certain Restrictions.

(a) In addition to any other vote of the Holders required by law or by the Certificate of Incorporation, without the prior consent of the Required Holders of the applicable series of Preferred Stock, given in person or by proxy, either in writing or at a special meeting called for that purpose, at which meeting the holders of the shares of such Preferred Stock shall vote together as a class, the Corporation will not:

(i) (x) authorize, create, designate, establish or issue (whether by merger or otherwise) (A) an increased number of shares of Preferred Stock, or (B) any other class or series of capital stock ranking senior to or on parity with the Preferred Stock as to dividends or upon liquidation or (y) reclassify any shares of Common Stock into shares having any preference or priority as to dividends or upon liquidation superior to or on parity with any such preference or priority of such series of Preferred Stock; or

(ii) amend, restate, alter or repeal any of the rights, powers, privileges, or preferences of the Preferred Stock, except as otherwise required by law (in which case reasonable consultation with the Holders shall occur so as to mitigate any financial, governance or other impairment associated with such new law or change in law).

(b) Holders of Preferred Stock shall not transfer, convey, sell or otherwise dispose of any shares of Preferred Stock (including any transfer of all or a portion of the beneficial ownership of, or economic interest in, the Preferred Stock through derivative instruments or other similar arrangements) for a period of six months following the Closing Date; provided, that, if any of the Preferred Stock is converted into Common Stock pursuant to Section 6(a) above, during such six month period, the shares of Common Stock issued upon such conversion shall not be subject to such transfer restrictions. Following the six-month period, Holders of Preferred Stock may transfer their shares so long as they provide the Corporation with prior written notice and subject to compliance with all U.S. federal and other securities laws. Notwithstanding the foregoing, Holders may transfer any shares of Preferred Stock to an Affiliate of such Holder or in connection with a pledge of such Preferred Stock as collateral for borrowed money indebtedness with prior written notice to the Corporation.

17. No Impairment. The Corporation will not, through any reorganization, transfer of assets, consolidation, merger, scheme or arrangement, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Corporation but will at all time in good faith assist in the carrying out of all the provisions herein and in the taking of all such action as may be necessary or appropriate in order to protect the conversion rights and liquidation preferences granted hereunder of the Holders against impairment. Without limiting the generality of the foregoing, the Corporation (i) shall take all such actions as may be necessary or appropriate in order that the Corporation may validly and legally issue fully paid and non-assessable shares of Common Stock upon conversion of the Preferred Stock, and (ii) shall, so long as any shares or fraction of a share of Preferred Stock remain outstanding, take all action necessary to reserve and keep available out of its authorized and unissued shares of Common Stock solely for the purpose of effecting the conversion of the Preferred Stock, 100% of the number of shares of Common Stock issuable upon conversion of the Preferred Stock then outstanding (without regard to any limitations on conversion).

18. No Waiver. Except as otherwise modified or provided for herein, the Holders shall also be entitled to, and shall not be deemed to have waived, any other applicable rights granted to such Holders under the Delaware General Corporation Law.

19. Amendment; Waiver. Any term of the Preferred Stock may be amended or waived only upon the written consent of the Corporation and the Holders of at least a majority of the Preferred Stock then outstanding.

20. Action by Holders. Any action or consent to be taken or given by the Holders of the Preferred Stock may be given either at a meeting of the Holders of the Preferred Stock called and held for such purpose or by written consent.

21. Fractional Shares. Preferred Stock may be issued in fractions of a share that shall entitle each Holder, in proportion to such Holder's fractional shares, to exercise voting rights, receive dividends, participate in distributions and to have the benefit of all other rights of holders of Preferred Stock, including all conversion and redemption rights.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Designations, Preferences and Rights this 6th day of December, 2018.

CONCRETE PUMPING HOLDINGS, INC.

By: /s/ Bruce Young
Name: Bruce Young
Title: Chief Executive Officer

[*Signature Page to Certificate of Designations*]

Exhibit A

FORM OF
NOTICE OF CONVERSION

(TO BE EXECUTED BY THE REGISTERED HOLDER IN ORDER TO CONVERT SHARES OF SERIES A ZERO-DIVIDEND CONVERTIBLE PERPETUAL PREFERRED STOCK)

The undersigned hereby elects to convert the number of shares of Series A Zero-Dividend Convertible Perpetual Preferred Stock, par value $0.0001 per share ("Preferred Stock"), of Concrete Pumping Holdings, Inc., a Delaware corporation (the "Corporation"), indicated below into shares of common stock, par value $0.0001 per share ("Common Stock"), of the Corporation according to the conditions hereof, as of the date written below. If shares of Common Stock are to be issued in the name of a Person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto and is delivering herewith such certificates and opinions as may be reasonably required by the Corporation. No fee will be charged to the Holders for any conversion, except as described in the Corporation's Certificate of Designations, Preferences and Rights classifying the Preferred Stock (the "Certificate of Designations").

Conversion calculations:

Date to Effect Conversion: _____

Number of shares of Series A Preferred Stock owned prior to Conversion: _____

Number of shares of Series A Preferred Stock to be Converted: _____

Applicable Conversion Rate: _____

Number of shares of Series A Preferred Stock subsequent to Conversion: _____

Address for Delivery:

_____

_____

OR

DWAC Instruction:

Broker No.: _____
Account No. _____

Capitalized terms used but not defined herein have the respective meaning assigned thereto in the Certificate of Designations.

[HOLDER]

By: _____
Name:
Title:

Exhibit 4.1

NUMBER **SHARES**
C-

SEE REVERSE FOR CERTAIN DEFINITIONS

CUSIP [_]

CONCRETE PUMPING HOLDINGS, INC.

COMMON STOCK

THIS CERTIFIES THAT is the owner of fully paid and non-assessable shares of common stock, par value $0.0001 per share (the "***common stock***"), of Concrete Pumping Holdings, Inc., a Delaware corporation (the "***Company***"), transferable on the books of the Company in person or by duly authorized attorney upon surrender of this certificate properly endorsed.

This certificate is not valid unless countersigned by the Transfer Agent and registered by the Registrar of the Company.

Witness the facsimile signature of a duly authorized signatory of the Company.

Authorized Signatory

Authorized Signatory

CONCRETE PUMPING HOLDINGS, INC.

The Company will furnish without charge to each stockholder who so requests, a statement of the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof of the Company and the qualifications, limitations, or restrictions of such preferences and/or rights. This certificate and the shares represented thereby are issued and shall be held subject to all the provisions of the Certificate of Incorporation and all amendments thereto and resolutions of the Board of Directors providing for the issue of securities (copies of which may be obtained from the secretary of the Company), to all of which the holder of this certificate by acceptance hereof assents.

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM	—	as tenants in common	UNIF GIFT MIN ACT	—	_____ (Cust)	Custodian	_____ (Minor)
TEN ENT	—	as tenants by the entireties			under Uniform Gifts to Minors Act		
JT TEN	—	as joint tenants with right of survivorship and not as tenants in common					

(State)

Additional abbreviations may also be used though not in the above list.

For value received, *hereby sells, assigns and transfers unto*

(PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER(S) OF ASSIGNEE(S))

(PLEASE PRINT OR TYPEWRITE NAME(S) AND ADDRESS(ES), INCLUDING ZIP CODE, OF ASSIGNEE(S))

shares of common stock represented by the within Certificate, and hereby irrevocably constitutes and appoints Attorney to transfer the said shares of common stock on the books of the within named Company with full power of substitution in the premises.

Dated:

Notice: The signature(s) to this assignment must correspond with the name as written upon the face of the certificate in every particular, without alteration or enlargement or any change whatever.

Signature(s) Guaranteed:

THE SIGNATURE(S) MUST BE GUARANTEED BY AN ELIGIBLE GUARANTOR INSTITUTION (BANKS, STOCKBROKERS, SAVINGS AND LOAN ASSOCIATIONS AND CREDIT UNIONS WITH MEMBERSHIP IN AN APPROVED SIGNATURE GUARANTEE MEDALLION PROGRAM, PURSUANT TO S.E.C. RULE 17Ad-15 UNDER THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED (OR ANY SUCCESSOR RULE).

Exhibit 4.2

[Form of Warrant Certificate]

[FACE]

Number

Warrants

THIS WARRANT SHALL BE VOID IF NOT EXERCISED PRIOR TO THE EXPIRATION OF THE EXERCISE PERIOD PROVIDED FOR IN THE WARRANT AGREEMENT DESCRIBED BELOW

CONCRETE PUMPING HOLDINGS, INC.
Incorporated Under the Laws of the State of Delaware

CUSIP [_]

Warrant Certificate

This Warrant Certificate certifies that , or registered assigns, is the registered holder of warrant(s) evidenced hereby (the "***Warrants***" and each, a "***Warrant***") to purchase shares of common stock, $0.0001 par value ("***Common Stock***"), of Concrete Pumping Holdings, Inc., a Delaware corporation (the "***Company***"). Each Warrant entitles the holder, upon exercise during the period set forth in the Warrant Agreement referred to below, to receive from the Company that number of fully paid and non-assessable shares of Common Stock as set forth below, at the exercise price (the "***Exercise Price***") as determined pursuant to the Warrant Agreement, payable in lawful money (or through "***cashless exercise***" as provided for in the Warrant Agreement) of the United States of America upon surrender of this Warrant Certificate and payment of the Exercise Price at the office or agency of the Warrant Agent referred to below, subject to the conditions set forth herein and in the Warrant Agreement. Defined terms used in this Warrant Certificate but not defined herein shall have the meanings given to them in the Warrant Agreement.

Each Warrant is initially exercisable for one fully paid and non-assessable share of Common Stock. The number of shares of Common Stock issuable upon exercise of the Warrants is subject to adjustment upon the occurrence of certain events set forth in the Warrant Agreement.

The initial Exercise Price per share of Common Stock for any Warrant is equal to $11.50 per share. The Exercise Price is subject to adjustment upon the occurrence of certain events set forth in the Warrant Agreement.

Subject to the conditions set forth in the Warrant Agreement, the Warrants may be exercised only during the Exercise Period and to the extent not exercised by the end of such Exercise Period, such Warrants shall become void.

Reference is hereby made to the further provisions of this Warrant Certificate set forth on the reverse hereof and such further provisions shall for all purposes have the same effect as though fully set forth at this place.

This Warrant Certificate shall not be valid unless countersigned by the Warrant Agent, as such term is used in the Warrant Agreement.

This Warrant Certificate shall be governed by and construed in accordance with the internal laws of the State of New York, without regard to conflicts of laws principles thereof.

CONCRETE PUMPING HOLDINGS, INC.

By: _____
Name:
Title:

CONTINENTAL STOCK TRANSFER & TRUST COMPANY, as Warrant Agent

By: _____
Name:
Title:

[Form of Warrant Certificate]

[Reverse]

The Warrants evidenced by this Warrant Certificate are part of a duly authorized issue of Warrants entitling the holder on exercise to receive shares of Common Stock and are issued or to be issued pursuant to a Warrant Agreement dated as of July 27, 2017 (the "***Warrant Agreement***"), duly executed and delivered by Industrea Acquisition Corp. ("***Industrea***") to Continental Stock Transfer & Trust Company, a New York corporation, as warrant agent (the "***Warrant Agent***"), as assigned to the Company pursuant to an Assignment and Assumption Agreement, dated as of December 6, 2018, duly executed and delivered by the Company, Industrea and the Warrant Agent, which Warrant Agreement is hereby incorporated by reference in and made a part of this instrument and is hereby referred to for a description of the rights, limitation of rights, obligations, duties and immunities thereunder of the Warrant Agent, the Company and the holders (the words "***holders***" or "***holder***" meaning the Registered Holders or Registered Holder) of the Warrants. A copy of the Warrant Agreement may be obtained by the holder hereof upon written request to the Company. Defined terms used in this Warrant Certificate but not defined herein shall have the meanings given to them in the Warrant Agreement.

Warrants may be exercised at any time during the Exercise Period set forth in the Warrant Agreement. The holder of Warrants evidenced by this Warrant Certificate may exercise them by surrendering this Warrant Certificate, with the form of election to purchase set forth hereon properly completed and executed, together with payment of the Exercise Price as specified in the Warrant Agreement (or through "cashless exercise" as provided for in the Warrant Agreement) at the principal corporate trust office of the Warrant Agent. In the event that upon any exercise of Warrants evidenced hereby the number of Warrants exercised shall be less than the total number of Warrants evidenced hereby, there shall be issued to the holder hereof or his, her or its assignee, a new Warrant Certificate evidencing the number of Warrants not exercised.

Notwithstanding anything else in this Warrant Certificate or the Warrant Agreement, no Warrant may be exercised unless at the time of exercise (i) a registration statement covering the shares of Common Stock to be issued upon exercise is effective under the Securities Act and (ii) a prospectus thereunder relating to the shares of Common Stock is current, except through "cashless exercise" as provided for in the Warrant Agreement.

The Warrant Agreement provides that upon the occurrence of certain events the number of shares of Common Stock issuable upon exercise of the Warrants set forth on the face hereof may, subject to certain conditions, be adjusted.

Warrant Certificates, when surrendered at the principal corporate trust office of the Warrant Agent by the Registered Holder thereof in person or by legal representative or attorney duly authorized in writing, may be exchanged, in the manner and subject to the limitations provided in the Warrant Agreement, but without payment of any service charge, for another Warrant Certificate or Warrant Certificates of like tenor evidencing in the aggregate a like number of Warrants.

Upon due presentation for registration of transfer of this Warrant Certificate at the office of the Warrant Agent a new Warrant Certificate or Warrant Certificates of like tenor and evidencing in the aggregate a like number of Warrants shall be issued to the transferee(s) in exchange for this Warrant Certificate, subject to the limitations provided in the Warrant Agreement, without charge except for any tax or other governmental charge imposed in connection therewith.

The Company and the Warrant Agent may deem and treat the Registered Holder(s) hereof as the absolute owner(s) of this Warrant Certificate (notwithstanding any notation of ownership or other writing hereon made by anyone), for the purpose of any exercise hereof, of any distribution to the holder(s) hereof, and for all other purposes, and neither the Company nor the Warrant Agent shall be affected by any notice to the contrary. Neither the Warrants nor this Warrant Certificate entitles any holder hereof to any rights of a stockholder of the Company.

Election to Purchase

(To Be Executed Upon Exercise of Warrant)

The undersigned hereby irrevocably elects to exercise the right, represented by this Warrant Certificate, to receive _____ shares of Common Stock and herewith tenders payment for such shares of Common Stock to the order of Concrete Pumping Holdings, Inc. (the "***Company***") in the amount of $_____ in accordance with the terms hereof. The undersigned requests that a certificate for such shares of Common Stock be registered in the name of _____, whose address is _____ and that such shares of Common Stock be delivered to _____ whose address is _____. If said number of shares of Common Stock is less than all of the shares of Common Stock purchasable hereunder, the undersigned requests that a new Warrant Certificate representing the remaining balance of such shares of Common Stock be registered in the name of _____, whose address is _____ and that such Warrant Certificate be delivered to _____, whose address is _____.

In the event that the Warrant has been called for redemption by the Company pursuant to Section 6 of the Warrant Agreement and the Company has required cashless exercise pursuant to Section 6.3 of the Warrant Agreement, the number of shares of Common Stock that this Warrant is exercisable for shall be determined in accordance with subsection 3.3.1(b) and Section 6.3 of the Warrant Agreement.

In the event that the Warrant is a Private Placement Warrant that is to be exercised on a "cashless" basis pursuant to subsection 3.3.1(c) of the Warrant Agreement, the number of shares of Common Stock that this Warrant is exercisable for shall be determined in accordance with subsection 3.3.1(c) of the Warrant Agreement.

In the event that the Warrant is to be exercised on a "cashless" basis pursuant to Section 7.4 of the Warrant Agreement, the number of shares of Common Stock that this Warrant is exercisable for shall be determined in accordance with Section 7.4 of the Warrant Agreement.

In the event that the Warrant may be exercised, to the extent allowed by the Warrant Agreement, through cashless exercise (i) the number of shares of Common Stock that this Warrant is exercisable for would be determined in accordance with the relevant section of the Warrant Agreement which allows for such cashless exercise and (ii) the holder hereof shall complete the following: The undersigned hereby irrevocably elects to exercise the right, represented by this Warrant Certificate, through the cashless exercise provisions of the Warrant Agreement, to receive shares of Common Stock. If said number of shares is less than all of the shares of Common Stock purchasable hereunder (after giving effect to the cashless exercise), the undersigned requests that a new Warrant Certificate representing the remaining balance of such shares of Common Stock be registered in the name of _____, whose address is _____ and that such Warrant Certificate be delivered to _____, whose address is _____.

[Signature Page Follows]

Date: , 20

(Signature)

(Address)

(Tax Identification Number)

Signature Guaranteed:

THE SIGNATURE(S) SHOULD BE GUARANTEED BY AN ELIGIBLE GUARANTOR INSTITUTION (BANKS, STOCKBROKERS, SAVINGS AND LOAN ASSOCIATIONS AND CREDIT UNIONS WITH MEMBERSHIP IN AN APPROVED SIGNATURE GUARANTEE MEDALLION PROGRAM, PURSUANT TO S.E.C. RULE 17Ad-15 (OR ANY SUCCESSOR RULE)).

Exhibit 4.4

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the "Agreement") is entered into and effective as of December 6, 2018 by and among Industrea Acquisition Corp., a Delaware corporation ("Industrea"), Concrete Pumping Holdings Acquisition Corp. (to be renamed "Concrete Pumping Holdings, Inc." effective as the Closing (as defined below)) ("Newco"), and Continental Stock Transfer & Trust Company, a New York corporation ("Continental").

WHEREAS, Industrea and Continental have previously entered into a warrant agreement, dated as of July 27, 2017 (the "Warrant Agreement") governing the terms of Industrea's 34,100,000 outstanding warrants to purchase shares of common stock of Industrea (the "Warrants"); and

WHEREAS, Industrea has entered into an Agreement and Plan of Merger, dated as of September 7, 2018, (as amended, the "Merger Agreement"), with Newco, Concrete Pumping Holdings, Inc. ("CPH"), Concrete Pumping Intermediate Acquisition Corp., Concrete Pumping Merger Sub Inc. ("Concrete Merger Sub"), Industrea Acquisition Merger Sub Inc. ("Industrea Merger Sub") and PGP Investors, LLC, solely in its capacity as the initial Holder Representative, pursuant to which (a) Concrete Merger Sub will merge with and into CPH, with CPH surviving the merger as a wholly owned indirect subsidiary of Newco, and (b) Industrea Merger Sub will be merged with and into Industrea, with Industrea surviving the merger as a wholly owned subsidiary of Newco (the "Business Combination"); and

WHEREAS, effective upon the Business Combination, holders of the common stock, par value $0.0001 per share, of Industrea ("Industrea common stock") will receive common stock, par value $0.0001 per share, of Newco ("Newco common stock") in exchange for the Industrea common stock; and

WHEREAS, pursuant to Section 4.4 of the Warrant Agreement, upon the closing of the Business Combination (the "Closing"), the Warrants will represent the right of the holders thereof to purchase shares of Newco common stock; and

WHEREAS, as a result of the foregoing, the parties hereto wish for Industrea to assign to Newco all of Industrea's rights and interests and obligations in and under the Warrant Agreement and for Newco to accept such assignment, and assume all of Industrea's obligations thereunder, in each case, effective upon the Closing.

NOW, **THEREFORE**, for good and valuable consideration, receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. Assignment and Assumption of Warrant Agreement. Industrea hereby assigns, and Newco hereby agrees to accept and assume, effective as of the Closing, all of Industrea's rights, interests and obligations in, and under the Warrant Agreement and Warrants. Unless the context otherwise requires, from and after the Closing, any references in the Warrant Agreement or the Warrants to: (i) the "Company" shall mean Newco; (ii) "Common Stock" shall mean the shares of Newco common stock; and (iii) the "Board of Directors" or the "Board" or any committee thereof shall mean the board of directors of Newco or any committee thereof.

2. Replacement Instruments. Following the Closing, upon request by any holder of a Warrant, Newco shall issue a new instrument for such Warrant reflecting the adjustment to the terms and conditions described herein and in Section 4.4 of the Warrant Agreement.

3. Amendment to Warrant Agreement. To the extent required by this Agreement, the Warrant Agreement is hereby deemed amended pursuant to Section 9.8 thereof to reflect the subject matter contained herein, effective as of the Closing.

4. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, as such laws are applied to contracts entered into and performed in such State without resort to that State's conflict-of-laws rules.

5. **Counterpart**. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. Execution and delivery of this Agreement by email or exchange of facsimile copies bearing the facsimile signature of a party hereto shall constitute a valid and binding execution and delivery of this Agreement by such party.

6. **Successors and Assigns**. All the covenants and provisions of this Agreement shall bind and inure to the benefit of each party's respective successors and assigns.

[*Signature Pages Follow*]

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

INDUSTREA ACQUISITION CORP.

By: /s/ Tariq Osman
Name: Tariq Osman
Title: Executive Vice President

CONCRETE PUMPING HOLDINGS ACQUISITION CORP.

By: /s/ Tariq Osman
Name: Tariq Osman
Title: President

CONTINENTAL STOCK TRANSFER & TRUST COMPANY

By: /s/ Erika Young
Name: Erika Young
Title: Vice President

Exhibit 10.29

EXECUTION VERSION

TERM LOAN AGREEMENT

dated as of December 6, 2018

among

CONCRETE PUMPING HOLDINGS ACQUISITION CORP.
(to be renamed Concrete Pumping Holdings, Inc. upon the Merger),
as Holdings,

CONCRETE PUMPING INTERMEDIATE ACQUISITION CORP.,
as Intermediate Holdings,

CONCRETE PUMPING MERGER SUB, INC.
(to be merged with and into Concrete Pumping Holdings, Inc., which is
to be renamed Brundage-Bone Concrete Pumping Holdings Inc. upon consummation of the Merger),
as the Borrower,

THE FINANCIAL INSTITUTIONS PARTY HERETO,
as Lenders,

and

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH,
as Administrative Agent

CREDIT SUISSE LOAN FUNDING LLC,
JEFFERIES FINANCE LLC
and
STIFEL NICOLAUS & COMPANY INCORPORATED LLC
as Joint Lead Arrangers and Joint Bookrunners

TABLE OF CONTENTS

SCHEDULES:

EXHIBITS:

TERM LOAN AGREEMENT

TERM LOAN AGREEMENT, dated as of December 6, 2018 (this "Agreement"), by and among Concrete Pumping Holdings Acquisition Corp., a Delaware corporation (to be renamed Concrete Pumping Holdings, Inc. upon consummation of the Merger) ("Holdings"), Concrete Pumping Intermediate Acquisition Corp., a Delaware corporation ("Intermediate Holdings"), Concrete Pumping Merger Sub Inc., a Delaware corporation ("Merger Sub"), which upon the effectiveness of the Merger will be merged with and into the existing Concrete Pumping Holdings, Inc., a Delaware corporation (to be renamed Brundage-Bone Concrete Pumping Holdings Inc. upon consummation of the Merger) (the "Target"), the Lenders (as defined below) from time to time party hereto and Credit Suisse AG, Cayman Islands Branch ("Credit Suisse"), as administrative agent and collateral agent for the Lenders (in its capacity as administrative and collateral agent, the "Administrative Agent").

RECITALS

A. Pursuant to the terms of the Acquisition Agreement, on the Closing Date, Merger Sub, a wholly-owned subsidiary of Intermediate Holdings, will merge (the "Merger") with and into the Target, with the Target as the survivor of the Merger.

B. To fund a portion of the consideration for the Acquisition, the Borrower (a) has requested that the Lenders extend Initial Term Loans under this Agreement on the Closing Date in an original aggregate principal amount equal to $357,000,000 and (b) intends to enter into an asset-based credit facility under the ABL Credit Agreement in an aggregate principal amount of $60,000,000, subject to increase as provided therein.

C. The Lenders are willing to extend such credit to the Borrower on the terms and subject to the conditions set forth herein. Accordingly, the parties hereto agree as follows:

ARTICLE 1
DEFINITIONS

Section 1.01 Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

"ABL Agent" means the administrative agent under the ABL Facility.

"ABL Credit Agreement" means the revolving Credit Agreement, dated as of December 6, 2018, among, *inter alios*, Holdings, Intermediat Holdings, the Borrower and Wells Fargo Bank, National Association, as administrative agent, and the lenders from time to time party thereto, as the same may be amended, amended and restated, modified, replaced or refinanced as permitted under the Intercreditor Agreement.

"ABL Facility" means the asset-based revolving credit facility governed by the ABL Credit Agreement.

"ABL Facility Priority Collateral" has the meaning set forth in the Intercreditor Agreement.

"ABR", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, bear interest at a rate determined by reference to the Alternate Base Rate.

"Acceptable Intercreditor Agreement" means the Intercreditor Agreement or another intercreditor agreement that is reasonably satisfactory to the Administrative Agent and the Borrower.

"ACH" means automated clearing house transfers.

"Acquisition" means the Merger and the other transactions contemplated by the Acquisition Agreement.

"Acquisition Agreement" means that certain Agreement and Plan of Merger, dated as of September 7, 2018, by and among, *inter alios*, Holdings, Buyer, Intermediate Holdings, Merger Sub, Industrea Acquisition Merger Sub Inc. and the Target, including all annexes, exhibits and schedules thereto, as the same may be amended, supplemented or otherwise modified from time to time, but without giving effect to any amendment, waiver or consent by Holdings, Intermediate Holdings or Merger Sub that is materially adverse to the interests of the Arrangers or the Initial Lenders in their respective capacities as such without the consent of the Arrangers (such consent not to be unreasonably withheld, delayed or conditioned).

"Additional Agreement" has the meaning assigned to such term in Article 8.

"Additional Lender" has the meaning assigned to such term in Section 2.19(b).

"Additional Term Lender" mean any Lender with an Additional Term Loan Commitment or an outstanding Additional Term Loan.

"Additional Term Loan Commitments" means any term commitment added pursuant to Section 2.19, 2.20 and/or 9.02(c).

"Additional Term Loans" means any term loan added pursuant to Section 2.19, 2.20 and/or 9.02(c)(i).

"Adjusted Eurodollar Rate" means, with respect to any Eurodollar Rate Borrowing for any Interest Period, an interest rate per annum equal to the greater of (i) the Eurodollar Rate determined under clause (a) of the definition of "Eurodollar Rate" for such Interest Period, multiplied by the Statutory Reserve Rate and (ii) 0.00% per annum. The Adjusted Eurodollar Rate for any Eurodollar Rate Borrowing that includes the Statutory Reserve Rate as a component of the calculation will be adjusted automatically with respect to all such Eurodollar Rate Borrowings then outstanding as of the effective date of any change in the Statutory Reserve Rate.

"Administrative Agent" has the meaning assigned to such term in the preamble to this Agreement.

"Administrative Questionnaire" has the meaning assigned to such term in Section 2.19(d).

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

"Affiliate" means, as applied to any Person, any other Person directly or indirectly Controlling, Controlled by, or under common Control with, that Person. None of the Administrative Agent, the Arrangers, any Lender (other than any Affiliated Lender) or any of their respective Affiliates shall be considered an Affiliate of Holdings or any subsidiary thereof. For purposes of this Agreement and the other Loan Documents, Jefferies LLC and its Affiliates shall be deemed to be Affiliates of Jefferies Finance LLC and its Affiliates.

"Affiliated Lender" means the Sponsor or any Affiliate thereof (other than Holdings, Intermediate Holdings, the Borrower and any subsidiary of the Borrower or any Debt Fund Affiliate).

"Affiliated Lender Assignment and Assumption" means an assignment and assumption entered into by a Lender and an Affiliated Lender (with the consent of any party whose consent is required by Section 9.05) and accepted by the Administrative Agent in the form of Exhibit A-2 or any other form approved by the Administrative Agent and the Borrower.

"Affiliated Lender Cap" has the meaning assigned to such term in Section 9.05(g)(iv).

"Agreement" has the meaning assigned to such term in the preamble to this Term Loan Agreement.

"AHYDO Payment" means any payment or redemption of Indebtedness to avoid the application of Section 163(e)(5) of the Code or that are necessary to prevent any such Indebtedness from being treated as an "applicable high yield discount obligation" within the meaning of Section 163(i)(1) of the Code.

"Alternate Base Rate" means, for any day, a rate per annum equal to the highest of (a) the Federal Funds Effective Rate in effect on such day plus 0.50%, (b) the Eurodollar Rate (as determined under clause (b) of the definition of "Eurodollar Rate") plus 1.00%, (c) the Prime Rate and (d) 1.00%. Any change in the Alternate Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or the Eurodollar Rate, as the case may be, shall be effective from and including the effective date of such change in the Prime Rate, the Federal Funds Effective Rate or the Eurodollar Rate, as the case may be.

"Anti-Corruption Laws" has the meaning assigned to such term in Section 3.15(b).

"Applicable Percentage" means, with respect to any Term Lender of any Class, a percentage equal to a fraction the numerator of which is the aggregate outstanding principal amount of the Term Loans and unused Additional Term Loan Commitments of such Term Lender under the applicable Class and the denominator of which is the aggregate outstanding principal amount of the Term Loans and unused Term Commitments of all Term Lenders under the applicable Class.

"Applicable Rate" means, for any day, with respect to an Initial Term Loan, a percentage per annum equal to 5.00% for ABR Loans and 6.00% for Eurodollar Rate Term Loans.

"Approved Fund" means, with respect to any Lender, any Person (other than a natural Person or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural Person) that is engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities and is administered, advised or managed by (a) such Lender, (b) any Affiliate of such Lender or (c) any entity or any Affiliate of any entity that administers, advises or manages such Lender.

"Arrangers" means Credit Suisse Loan Funding LLC, Jefferies Finance LLC and Stifel Nicolaus & Company Incorporated.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 9.05), and accepted by the Administrative Agent in the form of Exhibit A-1 or any other form approved by the Administrative Agent and the Borrower.

"Available Amount" means, at any time, an amount equal to, without duplication:

(a) the sum of:

(i) the greater of $10,000,000 and 12% of Consolidated Adjusted EBITDA for the most recently ended Test Period; plus

(ii) the Retained Excess Cash Flow Amount; plus

(iii) the amount of any capital contribution or the proceeds of any issuance of Capital Stock (other than any amounts (x) constituting an Available Excluded Contribution Amount or proceeds of an issuance of Disqualified Capital Stock, (y) received from the Borrower or any Restricted Subsidiary or (z) otherwise applied to make Restricted Payments pursuant to Section 6.04(a)(ii)(B) or Restricted Debt Payments pursuant to Section 6.04(b)(iii)) received in cash and Cash Equivalents (up to fair market value) by the Borrower, from and including the day immediately following the Closing Date; plus

(iv) the net proceeds of any Indebtedness or Disqualified Capital Stock received in Cash and Cash Equivalents (up to fair market value), in each case, of the Borrower or any of its Restricted Subsidiaries issued after the Closing Date (other than Indebtedness or such Disqualified Capital Stock issued to the Borrower or any of its Restricted Subsidiaries), which has been converted into or exchanged for Capital Stock of the Borrower or any Parent Company that does not constitute Disqualified Capital Stock, in each case, during the period from and including the day immediately following the Closing Date through and including such time; plus

(v) the net proceeds received in cash and Cash Equivalents (up to fair market value) by the Borrower or any Restricted Subsidiary during the period from and including the day immediately following the Closing Date through and including such time in connection with the Disposition to any Person (other than the Borrower or any Restricted Subsidiary) of any Investment made pursuant to Section 6.06(q)(i) (in an amount not to exceed the original amount of such Investment); plus

(vi) to the extent not already reflected as a return of capital with respect to such Investment for purposes of determining the amount of such Investment, the proceeds received in cash and Cash Equivalents (up to fair market value) by the Borrower of any of its Restricted Subsidiaries during the period from and including the day immediately following the Closing Date through and including such time in connection with cash returns, cash profits, cash distributions and similar cash amounts, including cash principal repayments of loans, in each case received in respect of any Investment made after the Closing Date pursuant to Section 6.06(q)(i) (in an amount not to exceed the original amount of such Investment); plus

(vii) without duplication, (A) the amount of any Investments by the Borrower or any Restricted Subsidiary pursuant to Section 6.06(q)(i) in any Unrestricted Subsidiary (in an amount not to exceed the original amount of such Investment) that has been re-designated as a Restricted Subsidiary or has been merged, consolidated or amalgamated with or into, or is liquidated, wound up or dissolved into, the Borrower or any Restricted Subsidiary and (B) the fair market value (as reasonably determined by the Borrower) of the property or assets of any Unrestricted Subsidiary that have been transferred, conveyed or otherwise distributed (in an amount not to exceed the original amount of the Investment in such Unrestricted Subsidiary) to the Borrower or any Restricted Subsidiary, in each case, during the period from and including the day immediately following the Closing Date through and including such time; plus

(viii) the amount of any Declined Proceeds; plus

(ix) the net proceeds received in cash and Cash Equivalents (up to fair market value) of any non-ordinary course sale or other Disposition of assets that (A) are not required to be used to prepay the Term Facility pursuant to Section 2.08(b)(ii) because such net cash proceeds do not exceed any threshold therein and (B) are not required to be used to prepay loans outstanding under the ABL Facility, minus

(b) an amount equal to the sum of (i) Restricted Payments made pursuant to Section 6.04(a)(iii)(A), plus (ii) Restricted Debt Payments made pursuant to Section 6.04(b)(iv)(A), plus (iii) Investments made pursuant to Section 6.06(q)(i), in each case, after the Closing Date and prior to such time, or contemporaneously therewith;

provided that, (i) except with respect to amounts described in clause (a)(iii) above, (1) the use of any amounts hereunder pursuant to Section 6.04(a)(iii)(A) or Section 6.04(b)(iv)(A) shall not be available to the extent that any Event of Default has occurred and is continuing and (2) the use of any amounts hereunder pursuant to Section 6.04(a)(iii)(A) or Section 6.04(b)(iv)(A) shall not be available to the extent that, on a Pro Forma Basis, the Total Leverage Ratio would exceed 4.20:1.00 and (ii) the Borrower shall not be permitted to use clause (ii) of the Available Amount for Restricted Payments to the extent such Restricted Payment is made from Retained Excess Cash Flow that results from the application of the final proviso to Section 2.08(b)(i).

"Available Excluded Contribution Amount" means, at any time, an amount equal to:

(a) the aggregate amount of Cash or Cash Equivalents, received by the Borrower or any of its Restricted Subsidiaries after the Closing Date from:

(1) contributions in respect of Qualified Capital Stock (other than any amounts received from the Borrower), and

(2) the sale of Qualified Capital Stock of the Borrower (other than (i) to the Borrower or pursuant to any management equity plan or stock option plan or any other management or employee benefit plan and (ii) any amounts otherwise applied to make Restricted Payments pursuant to Section 6.04(a)(ii)(B) or Restricted Debt Payments pursuant to Section 6.04(b)(iii)),

in each case, designated as an Available Excluded Contribution Amount pursuant to a certificate of a Responsible Officer of the Borrower delivered to the Administrative Agent on or promptly after the date the relevant capital contribution is made or the relevant proceeds are received, as the case may be, and which are, for the avoidance of doubt, excluded from the calculation of the Available Amount; minus

(b) an amount equal to the sum of (i) Restricted Payments made pursuant to Section 6.04(a)(iii)(B), plus (ii) Restricted Debt Payments made pursuant to Section 6.04(b)(iv)(B), plus (iii) Investments made pursuant to Section 6.06(q)(ii), in each case, after the Closing Date and prior to such time or contemporaneously therewith.

"Bail-In Action" means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

"Bail-In Legislation" means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

"Banking Services" means each and any of the following bank services provided to any Loan Party: commercial credit cards, stored value cards, purchasing cards, treasury management services, netting services, overdraft protections, check drawing services and automated payment services (including depository, overdraft, controlled disbursement, ACH transactions, return items and interstate depository network services) employee credit card programs, cash pooling services, dealer incentive, supplier finance or similar programs, current account facilities and arrangements or services similar to any of the foregoing and/or otherwise in connection with Cash management and Deposit Accounts.

"Banking Services Obligations" means any and all obligations of any Loan Party, whether absolute or contingent and however and whenever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor) (a) under any arrangement that is in effect on the Closing Date between any Loan Party and a counterparty that is (or is an Affiliate of) the Administrative Agent, any Lender or any Arranger as of the Closing Date or (b) under any arrangement that is entered into after the Closing Date by any Loan Party with any counterparty that is (or is an Affiliate of) the Administrative Agent, any Lender or any Arranger at the time such arrangement is entered into, in each case, in connection with Banking Services, in each case, that have been designated to the Administrative Agent in writing by the Borrower as being Banking Services Obligations for the purposes of the Loan Documents, it being understood that each counterparty thereto shall be deemed (A) to appoint the Administrative Agent as its agent under the applicable Loan Documents and (B) to agree to be bound by the provisions of Article 8, Section 9.03, Section 9.10 and the Intercreditor Agreement as if it were a Lender.

"Bankruptcy Code" means Title 11 of the United States Code (11 U.S.C. § 101 et seq.).

"Bankruptcy Plan" has the meaning set forth in Section 9.05(g)(viii).

"Beneficial Ownership Certification" means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

"Beneficial Ownership Regulation" means 31 C.F.R. § 1010.230.

"Benefit Plan" means (a) an "employee benefit plan" (as defined in ERISA) that is subject to Title I of ERISA, (b) a "plan" as defined in and subject to Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such "employee benefit plan" or "plan".

"Bona Fide Debt Fund" means a debt fund, investment vehicle, regulated bank entity or a regulated lending entity that is engaged in making, purchasing, holding, or otherwise investing in commercial loans or similar extensions of credit in the ordinary course of business.

"Borrower" means initially, Merger Sub, immediately after giving effect to the Merger, the Target, and any Successor Borrower from time to time party hereto.

"Borrower Materials" has the meaning set forth in Section 5.01.

"Borrowing" means any Loans of the same Type and Class made, converted or continued on the same date and, in the case of Eurodollar Rate Loans, as to which a single Interest Period is in effect.

"Borrowing Request" means a request by the Borrower for a Borrowing in accordance with Section 2.03 and substantially in the form attached hereto as Exhibit B or such other form that is reasonably acceptable to the Administrative Agent and the Borrower.

"Business Day" means any day that is not a Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by law to remain closed; provided that when used in connection with a Eurodollar Rate Loan, the term "Business Day" shall also exclude any day on which banks are not open for dealings in Dollars in the London interbank market.

"Buyer" means Industrea Acquisition Corp., a Delaware corporation.

"Buyer Trust Funds" has the meaning set forth in Section 4.01(o)(iii).

"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, preferred equity certificates or other equivalents (however designated) of capital stock of a corporation or limited liability company (if applicable), any and all equivalent ownership interests in a Person (other than a corporation or limited liability company, if applicable), including partnership interests and membership interests, and any and all warrants, profit participation interests, rights or options to purchase or other arrangements or rights to acquire any of the foregoing, but excluding, for the avoidance of doubt, any Indebtedness convertible into or exchangeable for any of the foregoing.

"Captive Insurance Subsidiary" means any Restricted Subsidiary of the Borrower that is subject to regulation as an insurance company (or any Restricted Subsidiary thereof).

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

"Cash Equivalents" means, as at any date of determination, (a) securities (i) issued or directly and unconditionally guaranteed or insured as to interest and principal by the U.S. government or (ii) issued by any agency or instrumentality of the U.S., the obligations of which are backed by the full faith and credit of the U.S., in each case maturing within one year after such date and, in each case, repurchase agreements and reverse repurchase agreements relating thereto; (b) direct obligations issued by any state of the U.S., 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-2 from S&P or at least P-2 from Moody's (or, if at any time neither S&P nor Moody's shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating organization) and, in each case, repurchase agreements and reverse repurchase agreements relating thereto; (c) 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-2 from S&P or at least P-2 from Moody's (or, if at any time neither S&P nor Moody's shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency); (d) deposits, money market deposits, time deposit accounts, certificates of deposit or bankers' acceptances (or similar instruments) maturing within one year after such date and issued or accepted by any Lender or by any bank or trust company organized under, or authorized to operate as a bank or trust company under, the laws of the U.S., any state thereof or the District of Columbia or any political subdivision thereof and that has capital and surplus of not less than $250,000,000 and, in each case, repurchase agreements and reverse repurchase agreements relating thereto; (e) shares of any money market mutual fund that has (i) substantially all of its assets invested in the types of investments referred to in clauses (a) through (d) above, (ii) net assets of not less than $500,000,000 and (iii) a rating of at least A-2 from S&P or at least P-2 from Moody's; and (f) solely with respect to any Captive Insurance Subsidiary, any investment that such Captive Insurance Subsidiary is not prohibited to make in accordance with applicable law.

"Cash Equivalents" shall also include (x) investments of the type and maturity described in clauses (a) through (f) above of foreign obligors, which investments or obligors (or the parent companies thereof) have the ratings described in such clauses or equivalent ratings from comparable foreign rating agencies and (y) other short-term investments utilized by Foreign Subsidiaries in accordance with normal investment practices for cash management in investments analogous to the foregoing investments described in clauses (a) through (f) above and in this paragraph.

"CFC" means a "controlled foreign corporation" within the meaning of Section 957 of the Code.

"CFC Holdco" means any Domestic Subsidiary that has no material assets (held directly or indirectly) other than the Capital Stock or Indebtedness of one or more CFCs or CFC Holdcos.

"Change in Law" means (a) the adoption or taking effect of any law, rule or regulation after the Closing Date, (b) any change in any law, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the Closing Date or (c) compliance by any Lender (or, for purposes of Section 2.12(b), by any lending office of such Lender or by such Lender's holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the Closing Date (other than any such request, guideline or directive to comply with any law, rule or regulation that was in effect on the Closing Date). For purposes of this definition and Section 2.12, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements and directives thereunder or issued in connection therewith or in implementation thereof and (y) all requests, rules, guidelines, requirements or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or U.S. regulatory authorities, in each case pursuant to Basel III, shall in each case described in clauses (a), (b) and (c) above, be deemed to be a Change in Law, regardless of the date enacted, adopted, issued or implemented.

"Change of Control" means the earliest to occur of:

(a) the acquisition by any Person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act), including any group acting for the purpose of acquiring, holding or disposing of Securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act, but excluding any employee benefit plan and/or Person acting as the trustee, agent or other fiduciary or administrator therefor), other than one or more Permitted Holders, of Capital Stock representing more than the greater of (x) 35% of the total voting power of all of the outstanding voting stock of Holdings and (y) the percentage of the total voting power of all the outstanding voting stock of Holdings owned, directly or indirectly, by the Permitted Holders;

(b) occupation of a majority of the seats (other than vacant seats) on the board of directors of Holdings by Persons who were not directors of Holdings on the date of this Agreement, or nominated or appointed by the board of directors of Holdings;

(c) the Borrower ceasing to be a direct or indirect Wholly-Owned Subsidiary of Holdings and Intermediate Holdings; and

(d) the occurrence of a "change of control" or similar event under the ABL Credit Agreement.

"Charge" means any loss (as defined under GAAP), charge, fee, expense, cost, accrual or reserve of any kind.

"Charged Amounts" has the meaning assigned to such term in Section 9.19.

"Class", when used with respect to (a) any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Initial Term Loans, Additional Term Loans of any series established as a separate "Class" pursuant to Section 2.19, 2.20 and/or 9.02(c), (b) any Commitment, refers to whether such Commitment is an Initial Term Commitment, an Additional Term Loan Commitment of any series established as a separate "Class" pursuant to Section 2.19, 2.20 and/or 9.02(c), and (c) any Lender, refers to whether such Lender has a Loan or Commitment of a particular Class.

"Closing Date" means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02).

"Closing Date Investor Equity Contributions" has the meaning assigned to such term in Section 4.01(o)(i).

"Closing Date Investors" has the meaning assigned to such term in Section 4.01(o)(i).

"Code" means the Internal Revenue Code of 1986.

"Collateral" means any and all property of any Loan Party subject to a Lien under any Collateral Document and any and all other property of any Loan Party, now existing or hereafter acquired, that is or becomes subject to a Lien pursuant to any Collateral Document to secure the Secured Obligations.

"Collateral and Guarantee Requirement" means, at any time, subject to (x) the applicable limitations set forth in this Agreement and/or any other Loan Document and (y) the time periods (and extensions thereof) set forth in Section 5.12, the requirement that:

(a) the Administrative Agent shall have received in the case of any Restricted Subsidiary that is required to become a Loan Party after the Closing Date (including by ceasing to be an Excluded Subsidiary):

(i) (A) a joinder to the Loan Guaranty in substantially the form attached as an exhibit thereto, (B) a supplement to the Security Agreement in substantially the form attached as an exhibit thereto, (C) if the respective Restricted Subsidiary required to comply with the requirements set forth in this definition pursuant to Section 5.12 owns registrations of or applications for U.S. Patents, Trademarks and/or Copyrights or exclusive licenses to U.S. Copyrights that constitute Collateral, an Intellectual Property Security Agreement in substantially the form attached as Exhibit H hereto, (D) a completed Perfection Certificate, (E) Uniform Commercial Code financing statements in appropriate form for filing in such jurisdictions as the Administrative Agent may reasonably request and (F) an executed joinder to the Intercreditor Agreement in substantially the form attached as an exhibit thereto;

(ii) each item of Collateral required to be delivered under Section 4.02 of the Security Agreement (which, for the avoidance of doubt, shall be delivered within the time periods set forth in Section 5.12(a));

(b) the Administrative Agent shall have received with respect to any Material Real Estate Assets (other than any Excluded Real Property), a Mortgage and any necessary UCC fixture filing in respect thereof, in each case together with, to the extent customary and appropriate (as reasonably determined by the Administrative Agent and the Borrower):

(i) evidence that (A) counterparts of such Mortgage have been duly executed, acknowledged and delivered and such Mortgage and any corresponding UCC or equivalent fixture filing are in form suitable for filing or recording in all filing or recording offices that the Administrative Agent may deem reasonably necessary in order to create a valid and subsisting first priority, perfected Lien on such Material Real Estate Asset in favor of the Administrative Agent for the benefit of the Secured Parties to secure the Secured Obligations, (B) such Mortgage and any corresponding UCC or equivalent fixture filings have been duly recorded or filed, as applicable, and (C) all filing and recording taxes and fees have been paid or otherwise provided for in a manner reasonably satisfactory to the Administrative Agent;

(ii) customary legal opinions of local counsel for the relevant Loan Party with respect to each Mortgage in the jurisdiction in which such Material Real Estate Asset is located as the Administrative Agent may reasonably request, which legal opinions shall be in form and substance reasonably satisfactory to the Administrative Agent;

(iii) environmental assessments in form and scope reasonably satisfactory to the Administrative Agent;

(iv) a policy or policies of title insurance insuring the Lien of such Mortgage in an amount reasonably satisfactory to the Administrative Agent naming the Administrative Agent as the insured for the benefit of the Secured Parties, issued by a nationally recognized title insurance company reasonably acceptable to the Administrative Agent insuring the Lien of each such Mortgage as a valid and enforceable Lien on such Material Real Estate Asset described therein, free and clear of any other Liens except Permitted Liens, together with such endorsements, coinsurance and reinsurance as the Administrative Agent may reasonably request;

(v) American Land Title Association/American Congress of Surveying and Mapping (ALTA/ACSM) forms of surveys by a duly registered and licensed land surveyor for which all necessary fees have been paid dated a date reasonably acceptable to the Administrative Agent, certified to the Administrative Agent and the title insurance company in a manner reasonably satisfactory to the Administrative Agent; provided that the Administrative Agent may in its reasonable discretion accept any such existing survey so long as such existing survey satisfies any applicable local law requirements; and

(vi) appraisals (if required under the Financial Institutions Reform Recovery and Enforcement Act of 1989, as amended, as determined by the Administrative Agent in its reasonable discretion) and "Life-of-Loan" flood certifications and any required borrower notices under Regulation H together with any other documents as the Administrative Agent and any Lender may reasonably request to complete their respective flood due diligence (together with evidence of federal flood insurance for any such Flood Hazard Property located in a flood hazard area); provided that the Administrative Agent may in its reasonable discretion accept any such existing certificate or appraisal so long as such existing certificate or appraisal satisfies any applicable local law requirements.

"Collateral Documents" means, collectively, (i) the Security Agreement, (ii) each Mortgage, (iii) each Intellectual Property Security Agreement, (iv) any supplement to any of the foregoing delivered to the Administrative Agent pursuant to the definition of "Collateral and Guarantee Requirement" and (v) each of the other instruments and documents pursuant to which any Loan Party grants a Lien on any Collateral as security for payment of the Secured Obligations.

"Commercial Tort Claim" has the meaning set forth in Article 9 of the UCC.

"Commitment" means, with respect to each Lender, such Lender's Initial Term Loan Commitment and Additional Term Loan Commitment, as applicable, in effect as of such time.

"Commitment Schedule" means the Schedule attached hereto as Schedule 1.01(a).

"Commodity Exchange Act" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.).

"Company Competitor" means any competitor of the Borrower and/or any of its subsidiaries and/or the Target and/or any of its subsidiaries.

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

"Confidential Information" has the meaning assigned to such term in Section 9.13.

"Connection Income Taxes" means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

"Consolidated Adjusted EBITDA" means, as to any Person on a consolidated basis for any period, the sum of:

(a) Consolidated Net Income for such period; plus

(b) the sum, without duplication, of (to the extent deducted (and not added back) in calculating Consolidated Net Income, other than in respect of clauses (ix), (xv) and (xvi) below) the amounts of:

(i) Taxes paid and any provision for Taxes, including income, capital, state, franchise and similar Taxes, property Taxes and foreign withholding Taxes (including (i) penalties and interest related to any such Tax or arising from any Tax examination and (ii) pursuant to any Tax sharing arrangement, in each case as permitted by Section 6.04(a)(i)(A) or Section 6.04(a)(i)(B)) of such Person paid or accrued during such period;

(ii) consolidated interest expense whether paid or accrued and whether or not capitalized in respect of such period (including (A) fees and expenses paid or payable to the Administrative Agent in connection with its services hereunder (and to each agent under the ABL Facility in connection with its services thereunder), (B) amortization of debt issuance cost and/or original issue discount resulting from the issuance of Indebtedness at less than par and other bank, administrative agency (or trustee) and financing fees, (C) the interest component of Capital Lease obligations, (D) costs of surety bonds in connection with financing activities, (E) commissions, discounts and other fees, expenses and charges paid or owed with respect to letters of credit, bank guarantees, bankers' acceptances, ancillary facilities or any similar facilities or financing and hedging agreements and (F) any interest cost or expected return on any plan assets related to any post-employment benefit scheme or any other pension-related items and any curtailments or settlements related thereto);

(iii) (A) depreciation, amortization (including, without limitation, amortization of goodwill, software and other intangible assets), (B) any impairment Charge (including any non-cash Charge related to the impairment of goodwill and other assets) and (C) any asset write-off and/or write-down (other than write-offs or write-downs of inventory and accounts receivable in the ordinary course of business);

(iv) (A) Transaction Costs (including costs in connection with payments related to the rollover, acceleration or payout of equity interest and stock options held by management and members of the board of the Target and its subsidiaries), (B) Charges incurred (1) in connection with the consummation of any transaction (or any transaction proposed and not consummated), not prohibited by this Agreement, including any issuance or offering of Capital Stock any Investment, any Disposition, any recapitalization, any merger, consolidation or amalgamation, any option buyout or any incurrence, repayment, refinancing, amendment or modification of Indebtedness (including any amortization or write-off of debt issuance or deferred financing costs, premiums and prepayment penalties) or similar transaction and/or (2) in connection with any Qualifying Offering (whether or not consummated) and (C) the amount of any Charge that is actually reimbursed or reimbursable by one or more third parties pursuant to indemnification or reimbursement provisions or similar agreements or insurance; provided that in respect of any Charge that is added back in reliance on clause (C) above, the relevant Person in good faith expects to receive reimbursement for such fee, cost, expense or reserve within the next four Fiscal Quarters (it being understood that to the extent any reimbursement amount is not actually received within such Fiscal Quarters, such reimbursement amount shall be deducted in calculating Consolidated Adjusted EBITDA for such Fiscal Quarters);

(v) any Charge attributable to the undertaking and/or implementation of cost savings, operating expense reductions and/or synergies (including, without limitation, in connection with any integration or transition, any reconstruction, decommissioning, recommissioning or reconfiguration of fixed assets for alternative uses, any facility opening and/or pre-opening, any inventory optimization program and/or any curtailment), any business optimization Charge, any restructuring Charge (including any Charge relating to any Tax restructuring), any Charge relating to the closure or consolidation of any facility (including but not limited to severance, rent termination costs, moving costs and legal costs), any systems implementation Charge, any Charge relating to entry into a new market, any Charge relating to any strategic initiative, any consulting Charge, any signing Charge, any retention or completion bonus, any expansion and/or relocation Charge, any Charge associated with any modification to any pension and post-retirement employee benefit plan, any Charge associated with new systems design, any implementation Charge and/or any project startup Charge;

(vi) other add-backs and adjustments reflected in the model delivered to the Arrangers on May 27, 2018;

(vii) the amount of any Charge or deduction associated with any subsidiary of such Person attributable to non-controlling interests or minority interests of third parties;

(viii) the amount of any loss from (i) extraordinary items and (ii) non-recurring (including non-recurring credit expense) or unusual items (including costs of, and payments of, (x) litigation expenses, actual or prospective legal settlements, fines, judgments or orders, (y) recruitment and hiring bonuses and legal fees and Taxes related to issuances of significant options and (z) corporate reorganizations);

(ix) the amount of any expected pro forma "run rate" cost savings, operating expense reductions and synergies (collectively, "Expected Cost Savings") (net of actual amounts realized) that are reasonably identifiable and factually supportable (in the good faith determination of such Person, as certified by a Responsible Officer of such Person) related to (A) the Transactions and (B) any acquisition, divestiture, permitted Investment, Disposition, operating improvement, restructuring, cost savings initiative, any similar initiative and/or specified transaction, whether before (if in connection with the O'Brien Acquisition only) or after the Closing Date (any such operating improvement, restructuring, cost savings initiative or similar initiative or specified transaction, a "Cost Saving Initiative"); provided that, the results of such Expected Cost Savings and/or Cost Saving Initiatives are projected by the Borrower in good faith to result from actions that have been taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Borrower) within 12 months after (i) with respect to the Transactions, the Closing Date and (ii) with respect to any Cost Saving Initiative, the date of such operating improvement, restructuring, cost savings initiative or similar initiative or specified transaction (it being understood that pro forma "run rate" being the full benefit associated with any action taken or with respect to which substantial steps have been taken or are expected to be taken as though such Expected Cost Savings had been fully realized on the first date of the applicable Test Period for the entirety of such Test Period); provided, further that the aggregate amount added to or included in Consolidated Adjusted EBITDA pursuant to this clause (ix) shall not, for any Test Period, exceed an amount equal to 25% of Consolidated Adjusted EBITDA for such Test Period, calculated before giving effect to any such add-backs or inclusion;

(x) (A) any Charge incurred as a result of, in connection with or pursuant to any management equity plan, profits interest or stock option plan or any other management or employee benefit plan or agreement, any pension plan (including any post-employment benefit scheme which has been agreed to with the relevant pension trustee), any stock subscription or shareholder agreement, any employee benefit trust, any employee benefit scheme or any similar equity plan or agreement, (B) any Charges in connection with the rollover (including any deferred compensation agreement), acceleration or payout (including in the form of dividends or distributions) of Capital Stock held by management and members of the board of directors of any Parent Company, Holdings, Intermediate Holdings, Borrower and/or any of its subsidiaries, in each case, to the extent that (in the case of any Cash Charges) such Charges, are funded with net Cash proceeds contributed to the Subject Person as a capital contribution or as a result of the sale or issuance of Capital Stock (other than Disqualified Capital Stock) of the Subject Person and (C) the amount of travel and other expenses, payroll taxes, indemnification payments, director's fees and any other Charges incurred in connection with, or amounts payable to, any director of the board of Holdings or its parent entities in connection with such director serving as a member of such board of directors and performing his or her duties in respect thereof;

(xi) any earn-out obligation incurred or accrued in connection with the Acquisition, any acquisition and/or other Investment permitted pursuant to Section 6.06 and paid or accrued during such period and on similar acquisitions and Investments completed prior to the Closing Date;

(xii) Public Company Costs;

(xiii) any non-cash Charge (provided that to the extent that any such non-cash Charge represents an accrual or reserve for any potential cash item in any future period, (A) such Person may elect not to add back such non-cash Charge in the current period or (B) to the extent such Person elects to add back such non-cash Charge, the cash payment in respect thereof in such future period shall be subtracted from Consolidated Adjusted EBITDA to such extent);

(xiv) the amount of any Charge in connection with a single or one-time event, including, in connection with (A) the Acquisition, any acquisition or similar Investment permitted hereunder after the Closing Date (including without limitation, legal, accounting and other professional fees and expenses incurred in connection with acquisitions and other Investments made prior to the Closing Date), (B) the consolidation, closing or reconfiguration of any facility during such period and (C) one-time consulting costs;

(xv) to the extent not otherwise included in Consolidated Net Income, proceeds of business interruption insurance in an amount representing the earnings for the applicable period that such proceeds are intended to replace (whether or not received so long as such Person in good faith expects to receive the same within the next four Fiscal Quarters (it being understood that to the extent not actually received within such Fiscal Quarters, such proceeds shall be deducted in calculating Consolidated Adjusted EBITDA for such Fiscal Quarters));

(xvi) Cash actually received (or any netting arrangements resulting in reduced Cash expenditure) during such period, and not included in Consolidated Net Income, to the extent that the non-Cash gain relating to such Cash receipt or netting arrangement was deducted in the calculation of Consolidated Adjusted EBITDA pursuant to clause (c)(i) below for any previous period and not added back; and

(xvii) amounts paid or accrued in respect of Sponsor Fees to the extent permitted pursuant to Section 6.08(o)

minus

(c) to the extent such amounts increase Consolidated Net Income:

(i) non-Cash gains or income; provided that if any non-Cash gain or income relates to potential Cash items in any future period, such Person may determine not to deduct such non-Cash gain or income in the current period;

(ii) the amount added back to Consolidated Adjusted EBITDA pursuant to clause (b)(iv)(C) above (as described in such clause) to the extent such reimbursement amounts were not received within the time period required by such clause;

(iii) the amount added back to Consolidated Adjusted EBITDA pursuant to clause (b)(xv) above (as described in such clause) to the extent such business interruption insurance proceeds were not received within the time period required by such clause;

(iv) to the extent that such Person added back the amount of any non-Cash charge to Consolidated Adjusted EBITDA pursuant to clause (b)(xiii) above in respect of any previous period, the subsequent cash payment in respect thereof;

(v) the amount of any gain from (i) extraordinary items and (ii) non-recurring (including non-recurring credit expense) or unusual items (including costs of, and payments of, (x) litigation expenses, actual or prospective legal settlements, fines, judgments or orders, (y) recruitment and hiring bonuses and legal fees and Taxes related to issuances of significant options and (z) corporate reorganizations); and

(vi) the amount of any gain in connection with a single or one-time event.

Notwithstanding anything to the contrary, it is agreed, that for the purpose of calculating the Interest Coverage Ratio, the Total Leverage Ratio, the First Lien Leverage Ratio and the Secured Leverage Ratio for any period that includes the Fiscal Quarters ended on or about October 31, 2017, January 31, 2018, April 30, 2018 and July 31, 2018, (i) Consolidated Adjusted EBITDA for the Fiscal Quarter ended on or about October 31, 2017 shall be deemed to be $23,000,000, (ii) Consolidated Adjusted EBITDA for the Fiscal Quarter ended on or about January 31, 2018 shall be deemed to be $17,500,000, (iii) Consolidated Adjusted EBITDA for the Fiscal Quarter ended on or about April 30, 2018 shall be deemed to be $20,900,000, and (iv) Consolidated Adjusted EBITDA for the Fiscal Quarter ended on or about July 31, 2018 shall be deemed to be $21,700,000, in each case, as adjusted on a Pro Forma Basis, as applicable.

Unless otherwise stated or context clearly dictates otherwise, references to Consolidated Adjusted EBITDA shall refer to the Consolidated Adjusted EBITDA of the Borrower and its Restricted Subsidiaries.

"Consolidated First Lien Debt" means, as to any Person at any date of determination, the aggregate principal amount of Consolidated Total Debt outstanding on such date that is secured by a Lien on any asset of such Person or its Restricted Subsidiaries that is not, by its terms, contractually subordinated to the Lien securing the Obligations (and including, for the avoidance of doubt, Consolidated Total Debt under the ABL Facility).

"Consolidated Net Income" means, as to any Person (the "Subject Person") for any period, the net income (or loss) of the Subject Person on a consolidated basis for such period taken as a single accounting period determined in conformity with GAAP; provided that there shall be excluded, without duplication,

(a) the cumulative effect of any change in accounting principles during such period,

(b) any net gains or Charges with respect to (i) disposed, abandoned, closed and discontinued operations (other than, at the option of the Borrower, any operations pending the disposal, abandonment, divestiture and/or termination thereof) and any accretion or accrual of discounted liabilities and on the disposal of disposed, abandoned, and discontinued operations and/or (ii) any facilities, plants or distribution centers that have been closed during such period,

(c) gains, income, losses, expenses or charges (less all fees and expenses chargeable thereto) attributable to any sales or dispositions of Capital Stock or assets (including asset retirement costs) or returned surplus assets of any employee benefit plan, in each case, outside of the ordinary course of business,

(d) (i) the income of any Person (other than a subsidiary of the Subject Person) in which any other Person (other than the Subject Person or any of its subsidiaries) has a joint interest, except to the extent of the amount of dividends or distributions or other payments (including any ordinary course dividend, distribution or other payment) paid in Cash (or to the extent converted into Cash) to the Subject Person or any of its subsidiaries by such Person during such period and (ii) the loss of any Person (other than a subsidiary of the Subject Person) in which any other Person (other than the Subject Person or any of its subsidiaries) has a joint interest, other than to the extent that the Subject Person or any of its subsidiaries has contributed Cash or Cash Equivalents to such person in respect of such loss during such period,

(e) effects of adjustments (including the effects of such adjustments pushed down to the Subject Person and its Restricted Subsidiaries) in the Subject Person's consolidated financial statements pursuant to GAAP (including in the inventory, property and equipment, software, goodwill, intangible assets, in-process research and development, deferred revenue, deferred rent and debt line items thereof) resulting from the application of recapitalization accounting or acquisition accounting, as the case may be, in relation to the Transactions or any consummated acquisition or the amortization or write-off of any amounts thereof,

(f) any net income or loss (less all fees and expenses or charges related thereto) attributable to the early extinguishment of Indebtedness (and the termination of any associated Hedge Agreements),

(g) any (i) write-off or amortization made in such period of deferred financing costs and premiums paid or other expenses incurred directly in connection with any early extinguishment of Indebtedness, (ii) good will or other asset impairment charges, write-offs or write-downs or (iii) amortization of intangible assets,

(h) any non-cash compensation charge, cost, expense, accrual or reserve, including any such charge, cost, expense, accrual or reserve arising from the grant of stock appreciation or similar rights, stock options, restricted stock or other equity incentive programs, and any Cash charges associated with the rollover, acceleration or payment of management equity in connection with the Transactions,

(i) any fees, commissions and expenses incurred during such period, or any amortization or write-off thereof for such period in connection with any Investment, Disposition, incurrence or repayment of Indebtedness, issuance of Capital Stock, refinancing transaction or amendment or modification of any Indebtedness (in each case, including any such transaction consummated prior to the Closing Date and any such transaction undertaken but not completed) and any charges or non-recurring merger costs incurred during such period as a result of any such transaction,

(j) accruals and reserves that are established or adjusted within 12 months after (i) the Closing Date that are so required to be established or adjusted as a result of the Transactions and (ii) the date of any Permitted Acquisition or other similar Investment permitted pursuant to Section 6.06, in each case, in accordance with GAAP or as a result of the adoption or modification of accounting policies,

(k) any realized or unrealized foreign currency exchange gain or loss (including any currency re-measurement of Indebtedness, any net gain or loss resulting from Hedge Agreements for currency exchange risk associated with the foregoing or any other currency related risk and any gain or loss resulting from intercompany Indebtedness),

(l) any unrealized gain or loss in respect of the fair market value of (x) any obligation under any Hedge Agreement as determined in accordance with GAAP and/or (y) any other derivative instrument pursuant to, in the case of this clause (y), FASB ASC No. 815 – Derivatives and Hedging,

(m) solely for the purpose of determining the Available Amount, the net income for such period of any subsidiary (other than any Subsidiary Guarantor), to the extent the declaration or payment of dividends or similar distributions by that subsidiary of its net income is not at the date of determination permitted without any prior governmental approval (which has not been obtained) or, directly or indirectly, by the operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule, or governmental regulation applicable to that subsidiary or its stockholders, unless such restriction with respect to the payment of dividends or similar distributions has been legally waived; provided that Consolidated Net Income will be increased by the amount of dividends or other distributions or other payments actually paid in cash (or to the extent converted into cash) to the Subject Person or a subsidiary thereof in respect of such period, to the extent not already included therein, and

(n) solely for purposes of calculating Excess Cash Flow, the income or loss of any Person accrued prior to the date on which such Person becomes a Restricted Subsidiary of such Person or is merged into or consolidated with such Person or any Restricted Subsidiary of such Person or the date that such other Person's assets are acquired by such Person or any Restricted Subsidiary of such Person.

Unless otherwise stated or context clearly dictates otherwise, references to Consolidated Net Income shall refer to the Consolidated Net Income of the Borrower and its Restricted Subsidiaries.

"Consolidated Secured Debt" means, as to any Person at any date of determination, the aggregate principal amount of Consolidated Total Debt outstanding on such date that is secured by a Lien on any asset or property of such Person or its Restricted Subsidiaries.

"Consolidated Total Assets" means, at any date, all amounts that would, in conformity with GAAP, be set forth opposite the caption "total assets" (or any like caption) on a consolidated balance sheet of the applicable Person at such date; provided that, at all times prior to the first delivery of financial statements pursuant to Section 5.01(a) or (b), this definition shall be applied based on the pro forma balance sheet of Holdings delivered pursuant to Section 4.01.

"Consolidated Total Debt" means, as to any Person at any date of determination, the aggregate principal amount of all (a) debt for borrowed money, (b) Capital Leases and (c) purchase money Indebtedness of such Person and its Restricted Subsidiaries on a consolidated basis; provided that "Consolidated Total Debt" shall be calculated (x) net of the Unrestricted Cash Amount and (y) excluding any obligation, liability or indebtedness of such Person if, upon or prior to the maturity thereof, such Person has irrevocably deposited with the proper Person in trust or escrow the necessary funds (or evidences of indebtedness) for the payment, redemption or satisfaction of such obligation, liability or indebtedness, and thereafter such funds and evidences of such obligation, liability or indebtedness or other security so deposited are not included in the calculation of the Unrestricted Cash Amount; provided, further that "Consolidated Total Debt" shall not be reduced pursuant to clause (x) by more than $15,000,000.

"Consolidated Working Capital" means, as at any date of determination, the excess of Current Assets over 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; provided that there shall be excluded (a) the effect of reclassification during such period between current assets and long term assets and current liabilities and long term liabilities (with a corresponding restatement of the prior period to give effect to such reclassification), (b) the effect of any Disposition or acquisition of any Person, facility or business line, unit or division by such Person during such period, (c) the effect of any fluctuations in the amount of accrued and contingent obligations under any Hedge Agreement, and (d) the application of acquisition or recapitalization accounting.

"Contract Consideration" has the meaning assigned to such term in the definition of "Excess Cash Flow".

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

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling" and "Controlled" have meanings correlative thereto.

"Copyright" means any and all (a) copyrights, rights and interests in copyrights, works protectable by copyright whether published or unpublished, copyright registrations and copyright applications, (b) all renewals of any of the foregoing, (c) income, royalties, damages, and payments now or hereafter due and/or payable under any of the foregoing, including, without limitation, damages or payments for past or future infringements for any of the foregoing, (d) rights to sue for past, present and future infringement of any of the foregoing, and (e) rights corresponding to any of the foregoing throughout the world.

"Cost Saving Initiative" has the meaning assigned to such term in the definition of "Consolidated Adjusted EBITDA".

"Credit Suisse" has the meaning assigned to such term in the preamble to this Agreement.

"Current Assets" means, at any date, all assets of the Borrower and its Restricted Subsidiaries which under GAAP would be classified as current assets (excluding any (a) Cash and Cash Equivalents, (b) the current portion of current and deferred Taxes, (c) permitted loans made to third parties, (d) assets held for sale, (e) pension assets, (f) deferred bank fees, (g) derivative financial instruments and (h) insurance claims).

"Current Liabilities" means, at any time, the consolidated current liabilities of the Borrower and its Restricted Subsidiaries at such time, but excluding, without duplication, (a) the current portion of any long-term Indebtedness, (b) the current portion of interest expense, (c) the current portion of any Capital Lease, (d) the current portion of current and deferred Taxes based on income, profit or capital, (e) liabilities in respect of unpaid earn-outs, (f) the current portion of any other long-term liabilities, (g) accruals relating to restructuring reserves or other exceptional items, (h) liabilities in respect of funds of third parties on deposit with the Borrower or any of its Restricted Subsidiaries, (i) any liabilities recorded in connection with stock-based awards, partnership interest-based awards, awards of profits interests, deferred compensation awards and similar incentive based compensation awards or arrangements and liabilities related to any post-employment benefit schemes and (j) liabilities related to Restricted Payments declared but not yet paid.

"Debt Fund Affiliate" means (i) any fund managed by, or under common management with, the Sponsor, and (ii) any other Affiliate of the Sponsor or another investor in Holdings that, in any such case of clauses (i) or (ii), is a Bona Fide Debt Fund.

"Debtor Relief Laws" means the Bankruptcy Code of the U.S., and all other liquidation, conservatorship, bankruptcy, general assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization or similar debtor relief laws of the U.S. or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"Declined Proceeds" has the meaning assigned to such term in Section 2.08(b)(v).

"Default" means any event or condition which upon notice, lapse of time or both would become an Event of Default.

"Defaulting Lender" means any Lender that has (a) become (or any parent company thereof has become) insolvent or been determined by any Governmental Authority having regulatory authority over such Person or its assets, to be insolvent, or the assets or management of which has been taken over by any Governmental Authority, (b) become (or any parent company thereof has become) the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or custodian, appointed for it, or has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in, any such proceeding or appointment, unless in the case of any Lender subject to this clause (b), the Borrower and the Administrative Agent have each determined that such Lender intends, and has all approvals required to enable it (in form and substance satisfactory to each of the Borrower and the Administrative Agent), to continue to perform its obligations as a Lender hereunder; provided that no Lender shall be deemed to be a Defaulting Lender solely by virtue of the ownership or acquisition of any Capital Stock in such Lender or its parent by any Governmental Authority or (c) become the subject of a Bail-In Action; provided that such action does not result in or provide such Lender with immunity from the jurisdiction of courts within the U.S. or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contract or agreement to which such Lender is a party.

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

"Derivative Transaction" means (a) any interest-rate transaction, including any interest-rate swap, basis swap, forward rate agreement, interest rate option (including a cap, collar or floor), and any other instrument linked to interest rates that gives rise to similar credit risks (including when-issued securities and forward deposits accepted), (b) any exchange-rate transaction, including any cross-currency interest-rate swap, any forward foreign-exchange contract, any currency option, and any other instrument linked to exchange rates that gives rise to similar credit risks, (c) any equity derivative transaction, including any equity-linked swap, any equity-linked option, any forward equity-linked contract, and any other instrument linked to equities that gives rise to similar credit risk and (d) any commodity (including precious metal) derivative transaction, including any commodity-linked swap, any commodity-linked option, any forward commodity-linked contract, and any other instrument linked to commodities that gives rise to similar credit risks; provided, that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees, members of management, managers or consultants of Holdings or its subsidiaries shall be a Derivative Transaction.

"Designated Non-Cash Consideration" means the fair market value (as determined by the Borrower in good faith) of non-Cash consideration received by the Borrower or any Restricted Subsidiary in connection with any Disposition pursuant to Section 6.07(h) that is designated as Designated Non-Cash Consideration pursuant to a certificate of a Responsible Officer of the Borrower, setting forth the basis of such valuation (which amount will be reduced by the amount of Cash or Cash Equivalents received in connection with a subsequent sale or conversion of such Designated Non-Cash Consideration to Cash or Cash Equivalents).

"Disposition" or "Dispose" means the sale, lease, sublease, or other disposition of any property of any Person.

"Disqualified Capital Stock" means any Capital Stock which, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, (a) matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable (other than for Qualified Capital Stock), pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof (other than for Qualified Capital Stock), in whole or in part, on or prior to 91 days following the Latest Maturity Date at the time such Capital Stock is issued (it being understood that if any such redemption is in part, only such part coming into effect prior to 91 days following the Latest Maturity Date shall constitute Disqualified Capital Stock), (b) is or becomes convertible into or exchangeable (unless at the sole option of the issuer thereof) for (i) debt securities or (ii) any Capital Stock that would constitute Disqualified Capital Stock, in each case at any time on or prior to 91 days following the Latest Maturity Date at the time such Capital Stock is issued, (c) contains any mandatory repurchase obligation or any other repurchase obligation at the option of the holder thereof (other than for Qualified Capital Stock), in whole or in part, which may come into effect prior to 91 days following the Latest Maturity Date at the time such Capital Stock is issued, or (d) provides for the scheduled payments of (but not accrual of) dividends required to be paid in Cash on or prior to 91 days following the Latest Maturity Date at the time such Capital Stock is issued (it being understood that if any such repurchase obligation is in part, only such part coming into effect prior to 91 days following the Latest Maturity Date shall constitute Disqualified Capital Stock); provided that any Capital Stock that would not constitute Disqualified Capital Stock but for provisions thereof giving holders thereof (or the holders of any security into or for which such Capital Stock is convertible, exchangeable or exercisable) the right to require the issuer thereof to redeem such Capital Stock upon the occurrence of any change of control, Qualifying Offering or any Disposition occurring prior to 91 days following the Latest Maturity Date at the time such Capital Stock is issued shall not constitute Disqualified Capital Stock, if such Capital Stock provides that the issuer thereof will not redeem any such Capital Stock pursuant to such provisions prior to the Termination Date.

Notwithstanding the preceding sentence, (A) if such Capital Stock is issued pursuant to any plan for the benefit of directors, officers, employees, members of management, managers or consultants or by any such plan to such directors, officers, employees, members of management, managers or consultants, in each case in the ordinary course of business of Holdings, Intermediate Holdings, the Borrower or any Restricted Subsidiary (or any Parent Company or any subsidiary), such Capital Stock shall not constitute Disqualified Capital Stock solely because it may be required to be repurchased by the issuer thereof in order to satisfy applicable statutory or regulatory obligations and (B) no Capital Stock held by any future, present or former employee, director, officer, manager, member of management or consultant (or their respective Affiliates or Immediate Family Members) of the Borrower (or any Parent Company or any subsidiary) shall be considered Disqualified Capital Stock solely because such stock is redeemable or subject to repurchase pursuant to any management equity subscription agreement, stock option, stock appreciation right or other stock award agreement, stock ownership plan, put agreement, stockholder agreement or similar agreement that may be in effect from time to time.

"Disqualified Institution" means:

(a) (i) any Person identified to the Arrangers on or prior to September 26, 2018, (ii) any Affiliate of any Person described in clause (a)(i) above that is identified in a written notice to the Arrangers (if after September 26, 2018, and prior to the Closing Date) or the Administrative Agent (if after the Closing Date) and (iii) any other Affiliate of any Person described in clause (a)(i) above reasonably identifiable as such based solely on its name; and/or

(b) (i) any Company Competitor and/or any Affiliate of any Company Competitor, in each case identified to the Arrangers on or prior to September 26, 2018, (ii) any Company Competitor that is identified in writing and reasonably acceptable to the Arrangers (if after September 26, 2018 and prior to the Closing Date) or the Administrative Agent (if after the Closing Date), (iii) any Affiliate of any Person described in clauses (b)(i) and/or (b)(ii) above reasonably identifiable as such based solely on its name and (iv) any other Affiliate of any Person described in clauses (b)(i), (ii) and/or (iii) above that is (x) identifiable based solely on the name of such Affiliate or (y) identified by a written notice to the Arrangers (or, after the Closing Date, to the Administrative Agent) after September 26, 2018 (it being understood and agreed that no Bona Fide Debt Fund may be designated as a Disqualified Institution pursuant to this clause (b));

it being understood and agreed that no written notice delivered pursuant to clauses (a)(iii), (b)(ii) and/or (b)(iv) above shall apply retroactively to disqualify any person that has previously acquired an assignment or participation interest in the Loans.

"Dollars" or "$" refers to lawful money of the U.S.

"Domestic Subsidiary" means any Restricted Subsidiary incorporated or organized under the laws of the U.S., any state thereof or the District of Columbia.

"Dutch Auction" has the meaning assigned to such term on Schedule 1.01(b).

"EEA Financial Institution" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent;

"EEA Member Country" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"EEA Resolution Authority" means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"Effective Yield" means, as to any Indebtedness, the effective yield applicable thereto calculated by the Administrative Agent in consultation with the Borrower in a manner consistent with generally accepted financial practices, taking into account (a) interest rate margins, (b) interest rate floors (subject to the proviso set forth below), (c) any amendment to the relevant interest rate margins and interest rate floors prior to the applicable date of determination and (d) original issue discount and upfront or similar fees (based on an assumed four-year average life to maturity or lesser remaining average life to maturity), but excluding (i) any arrangement, commitment, structuring, underwriting and/or amendment fees (regardless of whether any such fees are paid to or shared in whole or in part with any lender) and (ii) any other fee that is not payable to all relevant lenders generally; provided, however, that (A) to the extent that the Eurodollar Rate or Alternate Base Rate (without giving effect to any floor specified in the definition thereof) is less than any floor applicable to the loans in respect of which the Effective Yield is being calculated on the date on which the Effective Yield is determined, the amount of the resulting difference will be deemed added to the interest rate margin applicable to the relevant Indebtedness for purposes of calculating the Effective Yield and (B) to the extent that the Eurodollar Rate (for a period of three months) or Alternate Base Rate (without giving effect to any floor specified in the definition thereof) is greater than any applicable floor on the date on which the Effective Yield is determined, the floor will be disregarded in calculating the Effective Yield.

"Eligible Assignee" means (a) any Lender, (b) any commercial bank, insurance company, or finance company, financial institution, any fund that invests in loans or any other "accredited investor" (as defined in Regulation D of the Securities Act), (c) any Affiliate of any Lender, (d) any Approved Fund of any Lender, (e) any Debt Fund Affiliate to the extent permitted by Section 9.05(g) or Section 9.05(h) and (f) to the extent permitted under Section 9.05(g), any Affiliated Lender; provided that in any event, "Eligible Assignee" shall not include (i) any natural Person, or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural Person, (ii) any Disqualified Institution or (iii) except as permitted under Section 9.05(g) or Section 9.05(h), the Borrower or any of its Affiliates.

"Environmental Claim" means any investigation, notice, notice of violation, claim, action, suit, proceeding, demand, abatement order or other order or directive (conditional or otherwise), by any Governmental Authority or any other Person, arising (a) pursuant to or in connection with any actual or alleged violation of any Environmental Law or actual or alleged Environmental Liability; (b) in connection with any Hazardous Material or any actual or alleged Hazardous Materials Activity; or (c) 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 applicable Requirements of Law and Governmental Authorizations relating to (a) environmental matters, including those relating to pollution or protection of the environment or to any Hazardous Materials Activity; or (b) the generation, use, storage, transportation or disposal of or exposure to hazardous or toxic wastes or materials.

"Environmental Liability" means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), directly or indirectly resulting from, based upon or relating to (a) any Environmental Law, (b) any Hazardous Material Activities, (c) exposure to any Hazardous Materials, or (d) any contract pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"Equity Contributions" means, collectively, (i) the Closing Date Investor Equity Contributions and (ii) the Sponsor Equity Contributions.

"ERISA" means the Employee Retirement Income Security Act of 1974.

"ERISA Affiliate" means, as applied to any Person, (a) any corporation which is a member of a controlled group of corporations within the meaning of Section 414(b) of the Code of which that Person is a member; (b) 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 Code of which that Person is a member; and (c) any member of an affiliated service group within the meaning of Section 414(m) or (o) of the Code of which that Person, any corporation described in clause (a) above or any trade or business described in clause (b) above is a member. For the avoidance of doubt, when any provision of this Agreement relates to a past event or period of time, the term "ERISA Affiliate" includes any person who was, as to the time of such past event or period of time, an "ERISA Affiliate" within the meaning of the preceding sentence.

"ERISA Event" means (a) a "reportable event" within the meaning of Section 4043 of ERISA and the regulations issued thereunder with respect to any Pension Plan (excluding those for which the 30-day notice period has been waived); (b) the failure to meet the minimum funding standard of Sections 412 or 430 of the Code or Sections 302 or 303 of ERISA with respect to any Pension Plan (whether or not waived in accordance with Section 412(c) of the Code); (c) the occurrence of a non-exempt prohibited transaction within the meaning of Section 4975 of the Code or Section 406 of ERISA with respect to which the Borrower or any of its Restricted Subsidiaries is a "disqualified person" (within the meaning of Section 4975 of the Code) or a "party in interest" (within the meaning of Section 3(14) of ERISA); (d) the provision by the administrator of any Pension Plan pursuant to Section 4041(a)(2) or Section 302 of ERISA of a notice of intent to terminate such plan in a distress termination described in Section 4041(c) of ERISA; (e) the withdrawal by the Borrower or any of its Restricted 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 the Borrower or any of its Restricted Subsidiaries or any of their respective ERISA Affiliates pursuant to Section 4063 or 4064 of ERISA; (f) the institution by the PBGC of proceedings to terminate any Pension Plan or to appoint a trustee to administer any Pension Plan under Section 4042 of ERISA; (g) the imposition of liability on the Borrower or any of its Restricted 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; (h) a complete or partial withdrawal (within the meaning of Sections 4203 and 4205 of ERISA) of the Borrower or any of its Restricted Subsidiaries or any of their respective ERISA Affiliates from any Multiemployer Plan if there is any potential liability therefor under Title IV of ERISA, or the receipt by the Borrower or any of its Restricted Subsidiaries or any of their respective ERISA Affiliates of notice from any Multiemployer Plan that it is "insolvent" (within the meaning of Section 4245 of ERISA) or in "endangered" or "critical" status (within the meaning of Section 432 of the Code or Section 305 of ERISA), or that it intends to terminate or has terminated under Section 4041A or 4042 of ERISA; (i) the incurrence of liability or the imposition of a Lien pursuant to Section 436 or 430(k) of the Code or pursuant to ERISA with respect to any Pension Plan; (j) any Foreign Benefit Event; or (k) any other event or condition with respect to a Pension Plan or Multiemployer Plan that could result in liability of the Borrower or any of its Restricted Subsidiaries.

"EU Bail-In Legislation Schedule" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

"Eurodollar Rate" means, for any Interest Period:

(a) in the case of any Eurodollar Rate Loan: means, for any Interest Period with respect to any Eurodollar Rate Loan, the rate per annum determined by the Administrative Agent at approximately 11:00 a.m. (London time) on the date that is two (2) Business Days prior to the commencement of such Interest Period by reference to the ICE Benchmark Administration London Interbank Offered Rate for deposits in Dollars (as set forth by any service selected by the Administrative Agent that has been nominated by the ICE Benchmark Administration (or the successor thereto if the ICE Benchmark Administration is no longer making a London Interbank Offered Rate available) as an authorized information vendor for the purpose of displaying such rates) for a period equal to such Interest Period; *provided*, that, if the Eurodollar Rate shall not be available at such time for such Interest Period (an "Impacted Interest Period"), then the Eurodollar Rate shall be the Interpolated Rate; and

(b) for any interest calculation with respect to an ABR Loan on any date: means, on any day (or if such day is not a Business Day, the immediately preceding Business Day) the rate per annum determined by the Administrative Agent at approximately 11:00 a.m. (London time) on such date by reference to the ICE Benchmark Administration London Interbank Offered Rate for deposits in Dollars with a term of one month (as set forth by any service selected by the Administrative Agent that has been nominated by the ICE Benchmark Administration (or the successor thereto if the ICE Benchmark Administration is no longer making a London Interbank Offered Rate available) as an authorized information vendor for the purpose of displaying such rates) for a period equal to such Interest Period.

"Event of Default" has the meaning assigned to such term in Article 7.

"Excess Cash Flow" means, for any Excess Cash Flow Period, an amount (if positive) equal to:

(a) the sum, without duplication, of the amounts for such period of the following:

(i) Consolidated Adjusted EBITDA of the Borrower and its Restricted Subsidiaries for such period without giving effect to clause (b)(ix) of the definition thereof, plus

(ii) the Consolidated Working Capital Adjustment for such period, plus

(iii) cash gains of the type described in clauses (a), (c), (d), and (l) of the definition of "Consolidated Net Income", to the extent not otherwise included in calculating Consolidated Adjusted EBITDA (except to the extent such gains consist of proceeds utilized in calculating Net Proceeds or Net Insurance/Condemnation Proceeds subject to Sections 2.08(b)(ii) and (iii)), plus

(iv) to the extent not otherwise included in the calculation of Consolidated Adjusted EBITDA for such period, cash payments received by the Borrower or any of its Restricted Subsidiaries with respect to amounts deducted from Excess Cash Flow in a prior period pursuant to clause (b)(vii) below, minus

(b) the sum, without duplication, of the amounts for such period of the following:

(i) (x) the aggregate amount of all principal payments of Indebtedness of the Borrower and its Restricted Subsidiaries made during such period (including (1) scheduled repayments of the Term Loans under Section 2.07(a) and (2) prepayments of the Term Loans under Section 2.08(b)(ii) to the extent required due to a Disposition that resulted in an increase to Consolidated Net Income and not in excess of the amount of such increase, but excluding (1) any other prepayment of the Term Loans and (2) all repayments and prepayments in respect of the ABL Facility (except to the extent there is an equivalent permanent reduction in the commitments thereunder)) and (y) except to the extent deducted pursuant to Section 2.08(b)(i)(B)(2), the amount of any reduction in the outstanding principal amount of the Term Loans resulting from assignments or contributions to Holdings, Intermediate Holdings, the Borrower or its subsidiaries pursuant to Section 9.05(g) or Section 9.05(h), in each case under this clause (y) in an amount equal to the lesser of the actual amount of Cash paid by Holdings, Intermediate Holdings, the Borrower or its subsidiaries in connection with such assignments or contributions and the applicable reduction (except, in each case, to the extent financed with long-term Indebtedness), plus

(ii) without duplication of amounts deducted from Excess Cash Flow pursuant to this clause (ii) or clause (ix) below in respect of a prior period, all Cash payments in respect of capital expenditures as would be reported in Holdings' consolidated statement of cash flows made during such period and, at the option of the Borrower, any Cash payments in respect of any such capital expenditures made after such period and prior to the date of the applicable Excess Cash Flow payment (except, in each case, to the extent financed with long-term Indebtedness), plus

(iii) consolidated interest expense added back pursuant to clause (b)(ii) of the definition of "Consolidated Adjusted EBITDA" to the extent paid in Cash, plus

(iv) Taxes paid and any provision for Taxes, including income, capital, state, franchise and similar Taxes, property Taxes and foreign withholding Taxes (including (i) penalties and interest related to any such Tax or arising from any Tax examination and (ii) pursuant to any Tax sharing arrangement, in each case permitted by Section 6.04(a)(i)) of such Person paid or accrued during such period, to the extent payable in Cash with respect to such period, plus

(v) without duplication of amounts deducted from Excess Cash Flow pursuant to this clause (v) or clause (ix) below in respect of a prior period, Cash payments made during such period in respect of Permitted Acquisitions and other Investments (including Investments in joint ventures) permitted by Section 6.06 or otherwise consented to by the Required Lenders (other than Investments in (x) Cash and Cash Equivalents and (y) the Borrower or any of its Restricted Subsidiaries), and, at the option of the Borrower, any Cash payments in respect of Permitted Acquisitions and other Investments (including Investments in joint ventures) permitted by Section 6.06 or otherwise consented to by the Required Lenders (other than Investments in (x) Cash and Cash Equivalents and (y) the Borrower or any of its Restricted Subsidiaries) made after such period and prior to the date of the applicable Excess Cash Flow payment (except, in each case, to the extent financed with long-term Indebtedness), plus

(vi) the aggregate amount of all Restricted Payments made under Sections 6.04(a)(i), (ii) and (iv) or otherwise consented to by the Required Lenders in each case to the extent actually paid in Cash during such period, and, at the option of the Borrower, made after such period and prior to the date of the applicable Excess Cash Flow payment (except, in each case, to the extent financed with long-term Indebtedness), plus

(vii) amounts added back under clauses (b)(iv)(C) or (b)(xvi) of the definition of "Consolidated Adjusted EBITDA" to the extent such amounts have not yet been received by the Borrower or its Restricted Subsidiaries in Cash, plus

(viii) an amount equal to all expenses, charges and losses either (A) excluded in calculating Consolidated Net Income or (B) added back in calculating Consolidated Adjusted EBITDA, in each case, to the extent paid or payable in Cash, plus

(ix) without duplication of amounts deducted from Excess Cash Flow in respect of a prior period, at the option of the Borrower, the aggregate consideration required to be paid in Cash by the Borrower or its Restricted Subsidiaries pursuant to binding contracts (the "Contract Consideration") entered into prior to or during such period relating to capital expenditures, acquisitions or Investments permitted by Section 6.06 or otherwise consented to by the Required Lenders (other than Investments in (x) Cash and Cash Equivalents and (y) the Borrower or any of its Restricted Subsidiaries) to be consummated or made during the period of four consecutive Fiscal Quarters of the Borrower following the end of such period (except, in each case, to the extent financed with long-term Indebtedness); provided that to the extent the aggregate amount actually utilized to finance such capital expenditures, acquisitions or Investments during such subsequent period of four consecutive Fiscal Quarters is less than the Contract Consideration, the amount of such shortfall shall be added to the calculation of Excess Cash Flow at the end of such subsequent period of four consecutive Fiscal Quarters, plus

(x) to the extent not expensed (or exceeding the amount expensed) during such period or not deducted (or exceeding the amount deducted) in calculating Consolidated Net Income or Consolidated Adjusted EBITDA, the aggregate amount of expenditures, fees, costs and expenses paid in Cash by the Borrower and its Restricted Subsidiaries during such period, other than to the extent financed with long-term Indebtedness, plus

(xi) Cash payments (other than in respect of Taxes, which are governed by clause (iv) above) made during such period for any liability the accrual of which in a prior period did not reduce Consolidated Adjusted EBITDA and therefore increased Excess Cash Flow in such prior period (provided there was no other deduction to Consolidated Adjusted EBITDA or Excess Cash Flow related to such payment), except to the extent financed with long-term Indebtedness, plus

(xii) Cash expenditures in respect of any Hedge Agreement during such period to the extent (A) not otherwise deducted in the calculation of Consolidated Net Income or Consolidated Adjusted EBITDA and (B) not financed with long-term Indebtedness, plus

(xiii) Cash payments made by the Borrower or its Restricted Subsidiaries during such period in respect of long-term liabilities, including for purposes of clarity, the current portion of any such liabilities (other than Indebtedness) of the Borrower or its Restricted Subsidiaries, except to the extent such cash payments were (A) deducted in the calculation of Consolidated Net Income or Consolidated Adjusted EBITDA for such period or (B) financed with long-term Indebtedness.

"Excess Cash Flow Period" means (i) the period commencing on the Closing Date and ending on the last day of the Fiscal Year ending on or about October 31, 2019 and (ii) each Fiscal Year thereafter.

"Exchange Act" means the Securities Exchange Act of 1934 and the rules and regulations of the SEC promulgated thereunder.

"Excluded Assets" means each of the following:

(a) any asset the grant or perfection of a security interest in which would (i) be prohibited by enforceable anti-assignment provisions set forth in any contract that is permitted or otherwise not prohibited by the terms of this Agreement, (ii) violate the terms of any contract relating to such asset that is permitted or otherwise not prohibited by the terms of this Agreement or (iii) trigger termination of any contract relating to such asset that is permitted or otherwise not prohibited by the terms of this Agreement pursuant to any "change of control" or similar provision; it being understood that the term "Excluded Asset" shall not include proceeds or receivables arising out of any contract described in this clause (a) to the extent that the assignment of such proceeds or receivables is expressly deemed to be effective under the UCC or other applicable Requirements of Law notwithstanding the relevant prohibition, violation or termination right,

(b) the Capital Stock of any (i) Captive Insurance Subsidiary, (ii) Unrestricted Subsidiary, and/or (iii) not-for-profit subsidiary, in each case except to the extent that such person is a Loan Guarantor or a security interest therein can be perfected by the filing of UCC financing statements without violating or conflicting with any agreement or instrument to which such entity or the Capital Stock thereof are subject,

(c) any intent-to-use (or similar) Trademark application prior to the filing and acceptance of a "Statement of Use", "Amendment to Allege Use" or similar filing with respect thereto, to the extent, if any, that, and solely during the period, if any, in which the grant of a security interest therein may impair the validity or enforceability of such intent-to-use Trademark application under applicable law,

(d) governmental licenses and state or local franchises, charters and authorizations, and any other property and asset, the grant or perfection of a security interest in which would (i) require any governmental consent, approval, license or authorization that has not been obtained, (ii) be prohibited by enforceable anti-assignment provisions of applicable Requirements of Law, except, in the case of this clause (ii), to the extent such requirement or prohibition would be rendered ineffective under the UCC or other applicable Requirements of Law notwithstanding such requirement or prohibition or (iii) result in material adverse tax consequences to any Loan Party as reasonably determined by the Borrower (in consultation with the Administrative Agent),

(e) any Excluded Real Property,

(f) any interest in any joint venture or non-Wholly-Owned Subsidiary,

(g) any Margin Stock,

(h) any Cash or Cash Equivalents maintained in or credited to any Deposit Account or Securities Account that are comprised solely of (i) funds used or to be used for payroll and payroll taxes and other employee benefit payments to or for the benefit of any Loan Party's employees, (ii) funds used or to be used to pay all Taxes required to be collected, remitted or withheld (including U.S. federal and state withholding Taxes (including the employer's share thereof)) and (iii) any other funds which any Loan Party holds as an escrow or fiduciary for the benefit of another Person in the ordinary course of business,

(i) any asset with respect to which the Administrative Agent and the Borrower have reasonably determined that the cost, burden, difficulty or consequence (including any effect on the ability of the relevant Loan Party to conduct its operations and business in the ordinary course of business) of obtaining or perfecting a security interest therein outweighs the benefit of a security interest to the relevant Secured Parties afforded thereby, which determination is evidenced in writing,

(j) Commercial Tort Claims with a value (as reasonably estimated by the Borrower) of less than $2,500,000,

(k) any lease, license or agreement or any asset subject to a purchase money security interest, Capital Lease or similar arrangement that is, in each case, permitted by this Agreement to the extent that the grant of a security interest therein would violate or invalidate such lease, license or agreement or purchase money, Capital Lease or similar arrangement or trigger a right of termination in favor of any other party thereto after giving effect to the applicable anti-assignment provisions the UCC or any other applicable Requirement of Law,

(l) the Capital Stock of (i) any CFC of the Borrower and (ii) any CFC Holdco, in each case, in excess of 65% of the issued and outstanding voting Capital Stock and 100% of the issued and outstanding non-voting Capital Stock in any such Person,

(m) Letter-of-Credit Rights with a value less than $2,500,000 (other than those constituting supporting obligations of other Collateral as to which perfection of the security interest in such other Collateral may be accomplished by the filing of a UCC-1 financing statement), and

(n) except to the extent perfected by filing of a UCC-1 financing statement, any assets located outside the United States or assets that require action under the law of any non-U.S. jurisdiction to create or perfect a security interest in such assets under such non-U.S. jurisdiction, including any intellectual property registered in any non-U.S. jurisdiction.

Notwithstanding the foregoing, no such asset shall constitute an "Excluded Asset" unless it also constitutes an "Excluded Asset" (or equivalent term) with respect to the U.S. "Loan Parties" (or equivalent term) under the ABL Facility.

"Excluded Real Property" means any Real Estate Asset which (i) is a leasehold Real Estate Asset or (ii) is not a Material Real Estate Asset; *provided* that no Real Estate Asset acquired after the Closing Date which constitutes a Material Real Estate Asset shall be deemed to be Excluded Real Property.

"Excluded Subsidiary" means

(a) any Restricted Subsidiary that is not a Wholly-Owned Subsidiary,

(b) any Restricted Subsidiary:

(i) that (i) is prohibited by (A) any Requirement of Law or (B) any Contractual Obligation that, in the case of this clause (B), exists on the Closing Date or at the time such Restricted Subsidiary becomes a subsidiary (which Contractual Obligation was not entered into in contemplation of such Restricted Subsidiary becoming a subsidiary) from providing a Loan Guaranty,

(ii) that would require a governmental consent, approval, license or authorization (including any regulatory consent, approval, license or authorization) to provide a Loan Guaranty (including any regulatory consent, approval, license or authorization) unless such consent, approval, license or authorization has been obtained, or

(iii) that is formed or acquired after the Closing Date where the provision by such Restricted Subsidiary of a Loan Guaranty would result in material adverse tax consequences as reasonably determined by the Borrower (in consultation with the Administrative Agent), written notice of which determination has been provided by the Borrower to the Administrative Agent,

(c) any not-for-profit subsidiary,

(d) any Captive Insurance Subsidiary,

(e) any Foreign Subsidiary,

(f) (i) any CFC Holdco and/or (ii) any Domestic Subsidiary that is a direct or indirect subsidiary of (A) a Foreign Subsidiary that is a CFC or (B) a CFC Holdco,

(g) any Unrestricted Subsidiary,

(h) any Immaterial Subsidiary, and

(i) any other Restricted Subsidiary with respect to which, in the reasonable judgment of the Administrative Agent and the Borrower, the burden or cost of providing a Loan Guaranty outweighs the benefits afforded thereby.

Notwithstanding the foregoing, except with respect to any Restricted Subsidiary of the Borrower that is organized in the United Kingdom and is a borrower or provides a guaranty under the ABL Facility, no subsidiary shall be an "Excluded Subsidiary" unless it also constitutes an "Excluded Subsidiary" (or equivalent term) for the purpose of the ABL Facility.

"Excluded Swap Obligation" means, with respect to any Loan Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Loan Guaranty of such Loan Guarantor of, or the grant by such Loan Guarantor of a security interest to secure, such Swap Obligation (or any Loan Guaranty thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Loan Guarantor's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act and the regulations thereunder (determined after giving effect to Section 3.20 of the Loan Guaranty and any other "keepwell", support or other agreement for the benefit of such Loan Guarantor) at the time the Loan Guaranty of such Loan Guarantor or the grant of such security interest becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Loan Guaranty or security interest is or becomes illegal.

"Excluded Taxes" means, with respect to the Administrative Agent or any Lender or any other recipient of any payment to be made by or on account of any obligation of any Loan Party under any Loan Document, (a) Taxes imposed on (or measured by) its net income (however denominated) or franchise Taxes (i) imposed as a result of such recipient being organized under the laws of, or having its principal office located in or, in the case of any Lender, having its applicable lending office located in, the applicable jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) any branch profits Taxes imposed under Section 884(a) of the Code or any similar Tax imposed by any jurisdiction described in clause (a), (c) in the case of a Lender, any U.S. federal withholding Taxes that are imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in the Loan or Commitment pursuant to a Requirement of Law in effect at the time such Lender (i) acquires such interest in the Loan or Commitment (other than pursuant to an assignment request under Section 2.16) or (ii) designates a new lending office, except in each case to the extent that the relevant Lender (or its assignor, if any) was entitled, immediately prior to the designation of a new lending office (or assignment), to receive additional amounts from any Loan Party with respect to such withholding tax pursuant to Section 2.14, (d) any tax imposed as a result of a failure by such Lender or Administrative Agent to comply with Section 2.14(f) and (e) any U.S. federal withholding tax under FATCA.

"Expected Cost Savings" has the meaning assigned to such term in the definition of "Consolidated Adjusted EBITDA".

"Extended Term Loans" has the meaning assigned to such term in Section 2.20(a)(i).

"Extension" has the meaning assigned to such term in Section 2.20(a).

"Extension Amendment" means an amendment to this Agreement that is reasonably satisfactory to the Administrative Agent (for purposes of giving effect to Section 2.20) and the Borrower executed by each of (a) Holdings, Intermediate Holdings, the Borrower and the Subsidiary Guarantors, (b) the Administrative Agent and (c) each Lender that has accepted the applicable Extension Offer pursuant hereto and in accordance with Section 2.20.

"Extension Offer" has the meaning assigned to such term in Section 2.20(a).

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

"FATCA" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code (or any amended or successor version described above), and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty, law, regulation, convention or other official guidance enacted in any other jurisdiction pursuant to an intergovernmental agreement between the U.S. and such jurisdiction that facilitates the implementation of the foregoing.

"FCPA has the meaning assigned to such term in Section 3.15(b).

"Federal Funds Effective Rate" means, for any day, the rate calculated by the Federal Reserve Bank of New York based on such day's federal funds transactions by depositary institutions (as determined in such manner as the Federal Reserve Bank of New York sets forth on its public website from time to time) and published on the next succeeding Business Day by the Federal Reserve Bank of New York as the federal funds effective rate.

"Fee Letter" means that certain Amended and Restated Fee Letter, dated as of September 28, 2018, by and among, *inter alios*, the Borrower, the Arrangers and the Administrative Agent, as amended.

"Financial Plan" has the meaning assigned to such term in Section 5.01(h).

"First Lien Leverage Ratio" means the ratio, as of any date of determination, of (a) Consolidated First Lien Debt as of such date to (b) Consolidated Adjusted EBITDA for the Test Period then most recently ended, in each case of the Borrower and its Restricted Subsidiaries on a consolidated basis.

"Fiscal Quarter" means a fiscal quarter of any Fiscal Year.

"Fiscal Year" means the fiscal year of Holdings for financial reporting purposes hereunder ending on or about October 31 of each calendar year.

"Fixed Amounts" has the meaning assigned to such term in Section 1.10(d).

"Fixed Incremental Amount" means, as of any date of determination, (a) the greater of $40,000,000 and 50% of Consolidated Adjusted EBITDA for the most recently ended Test Period minus (b) the aggregate outstanding principal amount of all Incremental Facilities and/or Incremental Equivalent Debt incurred or issued in reliance on the Fixed Incremental Amount.

"Flood Hazard Property" means any parcel of any Material Real Estate Asset subject to a Mortgage located in the U.S. in an area designated by the Federal Emergency Management Agency as having special flood or mud slide hazards.

"Foreign Benefit Event" means, with respect to any Foreign Pension Plan, (a) the existence of unfunded liabilities in excess of the amount permitted under any applicable law, or in excess of the amount that would be permitted absent a waiver from a Governmental Authority, (b) the failure to make the required contributions or payments, under any applicable law, on or before the due date for such contributions or payments, (c) the receipt of a notice by a Governmental Authority relating to the intention to terminate any such Foreign Pension Plan or to appoint a trustee or similar official to administer any such Foreign Pension Plan, or alleging the insolvency of any such Foreign Pension Plan, (d) the incurrence of any liability by the Borrower or any of its Restricted Subsidiaries under applicable law on account of the complete or partial termination of such Foreign Pension Plan or the complete or partial withdrawal of any participating employer therein, or (e) the occurrence of any transaction that is prohibited under any applicable law and that could reasonably be expected to result in the incurrence of any liability by the Borrower or any of its Restricted Subsidiaries, or the imposition on the Borrower or any of its Restricted Subsidiaries of any fine, excise tax or penalty resulting from any noncompliance with any applicable law.

"Foreign Lender" means any Lender that is not a "United States person" within the meaning of Section 7701(a)(30) of the Code.

"Foreign Pension Plan" means any Plan that under applicable law other than the laws of the United States or any political subdivision thereof, is required to be funded through a trust or other funding vehicle other than a trust or funding vehicle maintained exclusively by a Governmental Authority.

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

"Fund Affiliates" shall mean, with respect to any Person, any other Person which (a) directly or indirectly, is in Control of, is Controlled by, or is under common Control with, such Person and (b) is organized by the former such Person (or by a Person Controlling both of such Persons) primarily for the purpose of making equity or debt investments in one or more companies, but, in each case, not including any of such Person's portfolio companies.

"GAAP" means generally accepted accounting principles in the U.S. in effect and applicable to the accounting period in respect of which reference to GAAP is made.

"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 or locality of the U.S. or a foreign government.

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

"Granting Lender" has the meaning assigned to such term in Section 9.05(e).

"Guarantee" of or by any Person (the "guarantor") means any obligation, contingent or otherwise, of the Guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other monetary obligation of any other Person (the "primary obligor") in any manner and including any obligation of the guarantor (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other monetary obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other monetary obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other monetary obligation, (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or monetary obligation, (e) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part) or (f) secured by any Lien on any assets of such Guarantor securing any Indebtedness or other monetary obligation of any other Person, whether or not such Indebtedness or other monetary obligation is assumed by such guarantor (or any right, contingent or otherwise, of any holder of such Indebtedness or other monetary obligation to obtain any such Lien); provided that the term "Guarantee" shall not include endorsements for collection or deposit in the ordinary course of business, or customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition, Disposition or other transaction permitted under this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith.

"Hazardous Materials" means any chemical, material, substance or waste, or any constituent thereof, (i) that is defined, listed or regulated as hazardous, toxic, a pollutant or a contaminant, or words or similar import under Environmental Law or (ii) exposure to which is prohibited, limited or regulated by any Environmental Law or any Governmental Authority.

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

"Hedge Agreement" means any agreement with respect to any Derivative Transaction, or multiple Derivative Transactions governed by a master agreement, between Holdings, Intermediate Holdings, the Borrower or any Restricted Subsidiary, as applicable, and any other Person.

"Hedging Obligations" means, with respect to any Person, the obligations of such Person under any Hedge Agreement.

"Holdings" has the meaning assigned to such term in the preamble to this Agreement and shall include any Successor Holdings.

"IFRS" means international accounting standards within the meaning of the IAS Regulation 1606/2002, as in effect from time to time (subject to the provisions of Section 1.04), to the extent applicable to the relevant financial statements.

"Immaterial Subsidiary" means, as of any date, any Restricted Subsidiary of the Borrower (i) the assets of which do not exceed 2.5% of the Consolidated Total Assets of the Borrower and its Restricted Subsidiaries and (ii) revenues of which do not exceed 2.5% of the consolidated revenue of the Borrower and its Restricted Subsidiaries, in each case, for the most recently ended Test Period; provided that, (i) the Consolidated Total Assets (as so determined) of all Immaterial Subsidiaries shall not exceed 5% of Consolidated Total Assets of the Borrower and its Restricted Subsidiaries and (ii) the revenue (as so determined) of all Immaterial Subsidiaries shall not exceed 5% of the consolidated revenue of the Borrower and its Restricted Subsidiaries, in each case, for the relevant Test Period; provided further that, at all times prior to the first delivery of financial statements pursuant to Section 5.01(a) or (b), this definition shall be applied based on the pro forma consolidated financial statements of Holdings delivered pursuant to Section 4.01.

"Immediate Family Member" means, with respect to any individual, such individual's child, stepchild, grandchild or more remote descendant, parent, stepparent, grandparent, spouse, former spouse, domestic partner, former domestic partner, sibling, mother-in-law, father-in-law, son-in-law and daughter-in-law (including adoptive relationships), any trust, partnership or other bona fide estate-planning vehicle the only beneficiaries of which are any of the foregoing individuals, such individual's estate (or an executor or administrator acting on its behalf), heirs or legatees or any private foundation or fund that is controlled by any of the foregoing individuals or any donor-advised fund of which any such individual is the donor.

"Impacted Interest Period" has the meaning assigned to such term in the definition of "Eurodollar Rate".

"Incremental Cap" means

(a) the Fixed Incremental Amount, plus

(b) the aggregate amount of all voluntary prepayments, repurchases, redemptions and other retirements (including those pursuant to buybacks in an amount equal to the discounted amount actually paid in respect thereof) of any Term Loans (including resulting from any assignment of such Term Loans) that are secured on a pari passu basis with the Initial Term Loans (and in the case of any revolving credit facilities, including the ABL Facility, to the extent accompanied by a permanent reduction of the corresponding commitment) (excluding prepayments with the proceeds of long-term Indebtedness (other than proceeds of revolving Indebtedness)), plus

(c) an unlimited amount so long as, in the case of this clause (c), after giving effect to the relevant Incremental Facility or Incremental Equivalent Debt, (1) if such Incremental Facility or Incremental Equivalent Debt is secured by a Lien on the Term Loan Priority Collateral that is pari passu with the Lien securing the Secured Obligations, the First Lien Leverage Ratio does not exceed 3.50:1.00, (2) if such Incremental Facility or Incremental Equivalent Debt is secured by a Lien on the Term Loan Priority Collateral that is junior to the Lien securing the Secured Obligations, the Secured Leverage Ratio does not exceed 3.75:1.00 or (3) if such Incremental Facility or Incremental Equivalent Debt is unsecured, the Total Leverage Ratio does not exceed 4.20:1.00, in each case described in this clause (c), calculated on a Pro Forma Basis, including the application of the proceeds thereof (without "netting" the cash proceeds of the applicable Incremental Facility or Incremental Equivalent Debt on the consolidated balance sheet of the Borrower).

It is understood and agreed that, at the option of the Borrower, if all or any portion of Incremental Facility or Incremental Equivalent Debt would be permitted under clause (c) of this definition on the applicable date of determination, such Incremental Facility or Incremental Equivalent Debt (or the relevant portion thereof) shall be deemed to have been incurred in reliance on clause (c) of this definition prior to the utilization of any amount available under clause (a) of this definition.

"Incremental Commitment" means any commitment made by a lender to provide all or any portion of any Incremental Facility or Incremental Loans.

"Incremental Equivalent Debt" means Indebtedness in the form of junior secured or unsecured notes or loans and/or commitments in respect of any of the foregoing issued, incurred or implemented in lieu of loans under an Incremental Facility; provided, that:

(a) the aggregate outstanding amount thereof shall not exceed the Incremental Cap,

(b) except as otherwise agreed by the lenders or holders providing such notes or loans, no Event of Default exists immediately prior to or after giving effect to such notes or loans,

(c) the Weighted Average Life to Maturity applicable to such notes or loans (other than customary bridge loans with a maturity date of no longer than one year; provided, that any loans, notes, securities or other Indebtedness which are exchanged for or otherwise replace such bridge loans shall be subject to the requirements of this clause (c)) is no shorter than the Weighted Average Life to Maturity of the then-existing Term Loans,

(d) the final maturity date with respect to such notes or loans (other than customary bridge loans with a maturity date of no longer than one year; provided, that any loans, notes, securities or other Indebtedness which are exchanged for or otherwise replace such bridge loans shall be subject to the requirements of this clause (d)) is no earlier than the Latest Term Loan Maturity Date on the date of the issuance or incurrence, as applicable, thereof,

(e) any such Indebtedness may not participate on a greater than pro rata basis in any mandatory prepayment in respect of the Initial Term Loans (and any Additional Term Loans then subject to ratable repayment requirements), and

(f) no such Indebtedness may be (x) guaranteed by any Person which is not a Loan Party or (y) secured by any assets other than the Collateral.

"Incremental Facility" means any Incremental Term Facility.

"Incremental Facility Amendment" means an amendment to this Agreement that is reasonably satisfactory to the Administrative Agent (solely for purposes of giving effect to Section 2.19) and the Borrower executed by each of (a) Holdings, Intermediate Holdings and the Borrower, (b) the Administrative Agent and (c) each Lender that agrees to provide all or any portion of the Incremental Facility being incurred pursuant thereto and in accordance with Section 2.19.

"Incremental Loans" means any Incremental Term Loan.

"Incremental Term Facility" has the meaning assigned to such term in Section 2.19(a).

"Incremental Term Loans" has the meaning assigned to such term in Section 2.19(a).

"Incurrence-Based Amounts" has the meaning assigned to such term in Section 1.10(d).

"Indebtedness" as applied to any Person means, without duplication, (a) all indebtedness for borrowed money of such Person; (b) that portion of obligations with respect to Capital Leases to the extent recorded as a liability on a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP; (c) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments to the extent the same would appear as a liability on a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP; (d) any obligation owed for all or any part of the deferred purchase price of property or services which purchase price is (A) due more than six months from the date of incurrence of the obligation in respect thereof or (B) evidenced by a note or similar written instrument (excluding (i) any earn out obligation or purchase price adjustment until such obligation (A) becomes a liability on the statement of financial position or balance sheet (excluding the footnotes thereto) in accordance with GAAP and (B) has not been paid within 60 days after becoming due and payable, (ii) accrued expenses and trade accounts payable in the ordinary course of business (including on an inter-company basis) and (iii) liabilities associated with customer prepayments and deposits); (e) all Indebtedness of others secured by any Lien on any asset owned by such Person regardless of whether the Indebtedness secured thereby have been assumed by such Person or is non-recourse to the credit of such Person; (f) the face amount of any letter of credit issued for the account of such Person or as to which such Person is otherwise liable for reimbursement of drawings (except to the extent the relevant reimbursement obligations relate to trade payables and are satisfied within 3 days following the incurrence thereof); (g) the Guarantee by such Person of the Indebtedness of another; (h) all obligations of such Person in respect of any Disqualified Capital Stock and (i) all net obligations of such Person in respect of any Derivative Transaction, including any Hedge Agreement, whether or not entered into for hedging or speculative purposes; provided that (i) in no event shall obligations under any Derivative Transaction be deemed "Indebtedness" for any calculation of the Interest Coverage Ratio, First Lien Leverage Ratio, Total Leverage Ratio, the Secured Leverage Ratio or any other financial ratio under this Agreement and (ii) the amount of Indebtedness of any Person for purposes of clause (e) shall be deemed to be equal to the lesser of (A) the aggregate unpaid amount of such Indebtedness and (B) the fair market value of the property encumbered thereby as determined by such Person in good faith. For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any third person (including any partnership in which such Person is a general partner and any unincorporated joint venture in which such Person is a joint venturer) to the extent such Person would be liable therefor under applicable Requirements of Law or any agreement or instrument by virtue of such Person's ownership interest in such Person, except to the extent the terms of such Indebtedness provided that such Person is not liable therefor; provided that notwithstanding anything herein to the contrary, the term "Indebtedness" shall not include, and shall be calculated without giving effect to, the effects of Accounting Standards Codification Topic 815 and related interpretations to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose hereunder as a result of accounting for any embedded derivatives created by the terms of such Indebtedness.

"Indemnified Taxes" means (a) all Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in (a), Other Taxes.

"Indemnitee" has the meaning assigned to such term in Section 9.03(b).

"Information" has the meaning set forth in Section 3.11(a).

"Information Memorandum" means the Confidential Information Memorandum posted to SyndTrak dated October 2018 relating to Holdings, Intermediate Holdings, the Borrower and their Restricted Subsidiaries and the Transactions.

"Initial Term Lender" means any Lender with an Initial Term Loan Commitment or an outstanding Initial Term Loan.

"Initial Term Loan Commitment" means, with respect to each Term Lender, the commitment of such Term Lender to make Initial Term Loans hereunder in an aggregate amount not to exceed the amount set forth opposite such Term Lender's name on the Commitment Schedule under "Initial Term Commitment", as the same may be (a) reduced from time to time pursuant to Section 2.06 and (b) reduced or increased from time to time pursuant to (i) assignments by or to such Term Lender pursuant to Section 9.05 or (ii) increased from time to time pursuant to Section 2.19. The aggregate amount of the Term Lenders' Initial Term Loan Commitments on the Closing Date is $357,000,000.

"Initial Term Loans" means the term loans made by the Initial Term Lenders to the Borrower pursuant to Section 2.01.

"Institutional Investor" means an institutional investor that is engaged in making financial investments and is identified by written notice from the Borrower to the Administrative Agent delivered no later than fifteen (15) calendar days after the Closing Date.

"Intellectual Property Security Agreement" means any agreement executed on or after the Closing Date confirming or effecting the grant of any Lien on IP Rights owned by any Loan Party to the Administrative Agent, for the benefit of the Secured Parties, in accordance with this Agreement and the Security Agreement substantially in the form of Exhibit H or the exhibit thereto.

"Intercompany Indebtedness Subordination Agreement" means an Intercompany Indebtedness Subordination Agreement substantially in the form of Exhibit N.

"Intercreditor Agreement" means the Intercreditor Agreement substantially in the form of Exhibit M, dated as of the Closing Date, among, *inter alios*, the ABL Administrative Agent, as agent for the "ABL Secured Parties" referred to therein, the Administrative Agent, as agent for the "Term Loan Secured Parties" referred to therein, and the Loan Parties from time to time party thereto.

"Interest Coverage Ratio" means as of any date of determination the ratio for the most recently ended Test Period of (i) Consolidated Adjusted EBITDA for such Test Period to (ii) consolidated interest expense as outlined in clause (b)(ii) of the definition of "Consolidated Adjusted EBITDA", paid during or payable in cash for the most recently ended Test Period; provided that, for purposes of calculating the Interest Coverage Ratio for any period ending prior to the first anniversary of the Closing Date, consolidated interest expense shall be an amount equal to consolidated interest expense as outlined in clause (b)(ii) of the definition of "Consolidated Adjusted EBITDA" from the Closing Date through the date of determination multiplied by a fraction the numerator of which is 365 and the denominator of which is the number of days from the Closing Date through the date of determination.

"Interest Election Request" means a request by the Borrower in the form of Exhibit D or such other form reasonably acceptable to the Administrative Agent to convert or continue a Borrowing in accordance with Section 2.05.

"Interest Payment Date" means (a) with respect to any ABR Loan, the last Business Day of each Fiscal Quarter and the Latest Maturity Date applicable to such Loan and (b) with respect to any Eurodollar Rate Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of any Eurodollar Rate Borrowing with an Interest Period of more than three months' duration, each day that would have been an Interest Payment Date had successive Interest Periods of three months' duration been applicable to such Borrowing.

"Interest Period" means with respect to any Eurodollar Rate Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, two, three or six months (or, to the extent approved by all relevant affected Lenders, twelve months or a shorter period) thereafter, as the Borrower may elect; provided that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (ii) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

"Intermediate Holdings" has the meaning assigned to such term in the preamble to this Agreement and shall include any Successor Intermediate Holdings.

"Interpolated Rate" means at any time, the rate per annum determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) pages LIBOR01 or LIBOR02 of the Reuters screen for the longest period (for which that Eurodollar Rate is available in Dollars) that is shorter than the Impacted Interest Period and (b) pages LIBOR01 or LIBOR02 of the Reuters screen for the shortest period (for which that Eurodollar Rate is available for Dollars) that exceeds the Impacted Interest Period, in each case, at such time; provided that if the Interpolated Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"Investment" means (a) any purchase or other acquisition by the Borrower or any of its Restricted Subsidiaries of any of the Securities of any other Person, (b) the acquisition by purchase or otherwise (other than any purchase or other acquisition of inventory, materials, supplies and/or equipment in the ordinary course of business) of all or a substantial portion of the business, property or fixed assets of any other Person or any division or line of business or other business unit of any other Person and (c) any loan, advance or capital contribution by the Borrower or any of its Restricted Subsidiaries to any other Person. Subject to Section 5.10, the amount of any Investment shall be the original cost of such Investment, plus the cost of any addition thereto that would otherwise constitute an Investment, without any adjustments for increases or decreases in value, or write-ups, write-downs or write-offs with respect thereto, but giving effect to any repayments of principal in the case of any Investment in the form of a loan and any return of capital or return on Investment in the case of any equity Investment (whether as a distribution, dividend, redemption or sale but not in excess of the amount of the relevant initial Investment).

"IP Rights" has the meaning assigned to such term in Section 3.05(c).

"IRS" means the U.S. Internal Revenue Service.

"Junior Indebtedness" means any Indebtedness (other than Indebtedness (i) among the Borrower and/or its Restricted Subsidiaries and (ii) under the ABL Facility) that is expressly subordinated in right of payment to the Obligations with an individual outstanding principal amount in excess of the Threshold Amount.

"Junior Lien Indebtedness" means any Indebtedness that is secured by a security interest on the Collateral (other than Indebtedness (i) among the Borrower and/or its Restricted Subsidiaries and (ii) under the ABL Facility) that is expressly junior or subordinated to the Lien securing the Term Facility with an individual outstanding principal amount in excess of the Threshold Amount.

"Latest Maturity Date" means, as of any date of determination, the latest maturity or expiration date applicable to any Loan or commitment hereunder at such time, including the latest maturity or expiration date of any Term Loan or Term Commitment.

"Latest Term Loan Maturity Date" means, as of any date of determination, the latest maturity or expiration date applicable to any term loan or term commitment hereunder at such time, including the latest maturity or expiration date of any Term Loan or any Additional Term Loan Commitment.

"LCA Election" has the meaning assigned to such term in Section 1.10(c)

"LCA Test Date" has the meaning assigned to such term in Section 1.10(c)

"Lead Common Investor" means that certain equity investor in Holdings party to the Subscription Agreement, dated as of September 7, 2018, among such equity investor, Buyer and Holdings, which agreement has been provided by Buyer to the Administrative Agent on or prior to the date hereof.

"Legal Reservations" means the application of relevant Debtor Relief Laws, general principles of equity and/or principles of good faith and fair dealing.

"Lenders" means the Term Lenders, any lender with an Additional Term Loan Commitment or an outstanding Additional Term Loan and any other Person that becomes a party hereto pursuant to an Assignment and Assumption, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption.

"Letter-of-Credit Right" has the meaning set forth in Article 9 of the UCC.

"Lien" means any mortgage, deed of trust, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any Capital Lease having substantially the same economic effect as any of the foregoing), in each case, in the nature of security; provided that in no event shall an operating lease in and of itself be deemed to constitute a Lien.

"Limited Conditionality Acquisition" means an acquisition or similar Investment, which, pursuant to the terms of the applicable definitive agreement (the "Subject Agreement") in respect thereof, is not conditioned on the availability of financing, and which is designated in writing as a "Limited Conditionality Acquisition" by the Borrower or such Restricted Subsidiary to the Administrative Agent.

"Loan Documents" means this Agreement, the Fee Letter, any Promissory Note, each Loan Guaranty, the Collateral Documents, any intercreditor agreement required to be entered into pursuant to the terms of this Agreement to which any Loan Party is a party, each Refinancing Amendment, each Incremental Facility Amendment, each Extension Amendment and any other document or instrument designated by the Borrower and the Administrative Agent as a "Loan Document." Any reference in this Agreement or any other Loan Document to a Loan Document shall include all appendices, exhibits or schedules thereto.

"Loan Guaranty" means the Guaranty Agreement, substantially in the form of Exhibit I hereto, executed by each Loan Party thereto and the Administrative Agent for the benefit of the Secured Parties, as supplemented in accordance with the terms of Section 5.12 hereof.

"Loan Installment Date" has the meaning assigned to such term in Section 2.07(a).

"Loan Parties" means Holdings, Intermediate Holdings, Buyer, the Borrower and each Subsidiary Guarantor.

"Loan Guarantor" means Holdings, Intermediate Holdings and any Subsidiary Guarantor.

"Loans" means any Initial Term Loan or any Additional Term Loan.

"Management Equityholders" means the officers, directors, managers, employees and members of management of the Target and its subsidiaries (i) who have entered into rollover agreements, dated as of September 7, 2018, with Holdings and Buyer, as applicable or (ii) who are identified by Holdings and Buyer as "Management Equityholders" pursuant to the applicable rollover documentation by written notice to the Administrative Agent delivered at least two (2) Business Days prior to the Closing Date.

"Margin Stock" has the meaning assigned to such term in Regulation U.

"Material Adverse Effect" means (a) on the Closing Date, a "Material Adverse Effect" (as defined in the Acquisition Agreement) and (b) after the Closing Date, a material adverse effect on (i) the business, financial condition or results of operations, in each case, of the Borrower and its Restricted Subsidiaries, taken as a whole, (ii) the rights and remedies (taken as a whole) of the Administrative Agent under the applicable Loan Documents or (iii) the ability of the Loan Parties (taken as a whole) to perform their payment obligations under the applicable Loan Documents.

"Material Debt Instrument" means any physical instrument evidencing any Indebtedness for borrowed money which is required to be pledged and delivered to the Administrative Agent (or its bailee) pursuant to the Security Agreement.

"Material Real Estate Asset" means (a) on the Closing Date, each Real Estate Asset listed on Schedule 1.01(c) and (b) any "fee-owned" Real Estate Asset acquired by any Loan Party after the Closing Date having a fair market value (as reasonably determined by the Borrower) in excess of $5,000,000 as of the date of acquisition thereof.

"Maturity Date" means (a) with respect to the Initial Term Loans, the Term Loan Maturity Date, (b) with respect to any Replacement Term Loans, the final maturity date for such Replacement Term Loans, as the case may be, as set forth in the applicable Refinancing Amendment, (c) with respect to any Incremental Facility, the final maturity date set forth in the applicable Incremental Facility Amendment, and (d) with respect to Extended Term Loans, the final maturity date set forth in the applicable Extension Amendment.

"Maximum Rate" has the meaning assigned to such term in Section 9.19.

"Merger" has the meaning assigned to such term in the Recitals to this Agreement.

"Merger Sub" has the meaning assigned to such term in the preamble to this Agreement.

"Minimum Extension Condition" has the meaning assigned to such term in Section 2.20(b).

"MNPI" means material information concerning Holdings, any Subsidiary of Holdings or their securities that has not been disseminated in a manner making it available to investors generally, within the meaning of Regulation FD under the Securities Act and the Exchange Act. For purposes of this definition, "material information" means information concerning Holdings, any Subsidiary of Holdings, or any of their securities, that is material for purposes of the United States federal and state securities laws.

"Moody's" means Moody's Investors Service, Inc.

"Mortgages" means any mortgage, deed of trust or other agreement which conveys or evidences a Lien in favor of the Administrative Agent, for the benefit of the Administrative Agent and the relevant Secured Parties, and in form and substance reasonably acceptable to the Administrative Agent and the Borrower on any Material Real Estate Asset constituting Collateral.

"Multiemployer Plan" means any employee benefit plan which is a "multiemployer plan" as defined in Section 3(37) of ERISA, that is subject to the provisions of Title IV of ERISA, and in respect of which the Borrower or any of its Restricted Subsidiaries, or any of their respective ERISA Affiliates, makes or is obligated to make contributions or with respect to which any of them has any obligation or liability, contingent or otherwise.

"Narrative Report" means, with respect to the financial statements in respect of which it is delivered, a customary narrative report describing the operations of Holdings, Intermediate Holdings, the Borrower and its Restricted Subsidiaries for the relevant Fiscal Quarter or Fiscal Year and for the period from the beginning of the then-current Fiscal Year to the end of the period to which the relevant financial statements relate.

"Net Insurance/Condemnation Proceeds" means an amount equal to: (a) any Cash payments or proceeds (including Cash Equivalents) received by the Borrower or any of its Restricted Subsidiaries (i) under any casualty insurance policy in respect of a covered loss thereunder of any assets of the Borrower or any of its Restricted Subsidiaries or (ii) as a result of the taking of any assets of the Borrower or any of its Restricted 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 (b) (i) any actual out-of-pocket costs incurred by the Borrower or any of its Restricted Subsidiaries in connection with the adjustment, settlement or collection of any claims of the Borrower or the relevant Restricted Subsidiary in respect thereof, (ii) payment of the outstanding principal amount of, premium or penalty, if any, and interest and other amounts on any Indebtedness (other than the Loans, Indebtedness under the ABL Facility and any Indebtedness secured by a Lien on the Collateral that is pari passu with or expressly subordinated to the Lien on the Collateral securing any Secured Obligation) that is secured by a Lien on the assets in question and that is required to be repaid or otherwise comes due or would be in default under the terms thereof as a result of such loss, taking or sale, (iii) in the case of a taking, the reasonable out-of-pocket costs of putting any affected property in a safe and secure position, (iv) any selling costs and out-of-pocket expenses (including reasonable broker's fees or commissions, legal fees, transfer and similar Taxes and the Borrower's good faith estimate of income Taxes paid or payable (including pursuant to Tax sharing arrangements)) in connection with any sale or taking of such assets as described in clause (a) of this definition and (v) any amounts provided as a reserve in accordance with GAAP against any liabilities under any indemnification obligation or purchase price adjustments associated with any sale or taking of such assets as referred to in clause (a) of this definition (provided that to the extent and at the time any such amounts are released from such reserve, such amounts shall constitute Net Insurance/Condemnation Proceeds).

"Net Proceeds" means (a) with respect to any Disposition (including any Prepayment Asset Sale), the Cash proceeds (including Cash Equivalents and Cash proceeds subsequently received (as and when received) in respect of non-cash consideration initially received) received by the Borrower or any Restricted Subsidiary, net of (i) selling costs and out-of-pocket expenses (including reasonable broker's fees or commissions, legal fees, transfer and similar Taxes and the Borrower's good faith estimate of income Taxes paid or payable (including pursuant to Tax sharing arrangements) in connection with such Disposition), (ii) amounts provided as a reserve in accordance with GAAP against any liabilities under any indemnification obligation or purchase price adjustment associated with such Disposition (provided that to the extent and at the time any such amounts are released from such reserve, such amounts shall constitute Net Proceeds), (iii) the principal amount, premium or penalty, if any, interest and other amounts on any Indebtedness (other than the Loans, Indebtedness under the ABL Facility and any other Indebtedness secured by a Lien that is pari passu or expressly subordinated to the Lien on the Collateral securing the Secured Obligations) which is secured by the asset sold in such Disposition and which is required to be repaid or otherwise comes due or would be in default and is repaid (other than any such Indebtedness that is assumed by the purchaser of such asset) and (iv) Cash escrows (until released from escrow to the Borrower or any of its Restricted Subsidiaries) from the sale price for such Disposition; and (b) with respect to any issuance or incurrence of Indebtedness or Capital Stock, the Cash proceeds thereof, net of all Taxes and customary fees, commissions, costs, underwriting discounts and other fees and expenses incurred in connection therewith, in each case, less any withholding Taxes payable upon the distribution of such amounts to the Borrower or any of its Restricted Subsidiaries.

"Non-Consenting Lender" has the meaning assigned to such term in Section 2.16(b).

"Non-Loan Party Cap" means, with respect to any Indebtedness, as of any date of determination and after giving pro forma effect thereto and the use of proceeds thereof, an amount for all such Indebtedness incurred on or prior to such date of determination equal to $10,000,000.

"Non-Loan Party Indebtedness" means Indebtedness incurred by Restricted Subsidiaries that are not Loan Parties pursuant to 6.01(i), 6.01(k) and the proviso to 6.01(q).

"Non-Loan Party Investment Cap" means, with respect to any Investment, as of any date of determination and after giving pro forma effect thereto, an amount for all such Investments incurred on or prior to such date of determination equal to the greater of $20,000,000 and 25% of Consolidated Adjusted EBITDA for the most recently ended Test Period.

"Non-Management Equityholders" means the individuals who are (i) identified on Exhibit A to the Rollover Agreement, dated as of September 7, 2018, among the rollover holders party thereto, Holdings and Buyer, (ii) identified by Holdings and Buyer as "Non-Management Equityholders" pursuant to the applicable rollover documentation by written notice to the Administrative Agent delivered at least two (2) Business Days prior to the Closing Date, and (iii) identified on Schedule I (the "Vendors") to the UK Share Purchase Agreement, dated as of September 7, 2018, among the Vendors, Lux Concrete Holdings II S.A R.L. and Holdings.

"O'Brien Acquisition" means the acquisition of certain assets by Brundage-Bone Concrete Pumping, Inc. pursuant to the Asset Purchase Agreement, dated as of April 20, 2018, by and among Richard O'Brien Companies, Inc., Brundage-Bone Concrete Pumping, Inc. and the other parties thereto.

"Obligations" means all unpaid principal of and accrued and unpaid interest (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) on the Loans, all accrued and unpaid fees and all expenses, reimbursements, indemnities and all other advances to, debts, liabilities and obligations of any Loan Party to the Lenders or to any Lender, the Administrative Agent or any indemnified party arising under the Loan Documents in respect of any Loan, whether direct or indirect (including those acquired by assumption), absolute, contingent, due or to become due, now existing or hereafter arising.

"OFAC" has the meaning assigned to such term in Section 3.15(a).

"Organizational Documents" means (a) with respect to any corporation, its certificate or articles of incorporation or organization and its by-laws, (b) with respect to any limited partnership, its certificate of limited partnership and its partnership agreement, (c) with respect to any general partnership, its partnership agreement, (d) with respect to any limited liability company, its articles of organization or certificate of formation, and its operating agreement and (e) with respect to any other form of entity, such other organizational documents required by local Requirements of Law or customary under such jurisdiction to document the formation and governance principles of such type of entity. In the event that any term or condition of this Agreement or any other Loan 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.

"Other Applicable Indebtedness" has the meaning assigned to such term in Section 2.08(b)(ii).

"Other Connection Taxes" means, with respect to any Lender or Administrative Agent, Taxes imposed as a result of a present or former connection between such recipient and the jurisdiction imposing such Tax (other than connections arising from such recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document or sold or assigned an interest in any Loan or Loan Document).

"Other Taxes" means all present or future stamp, court, documentary, intangible, recording, filing or similar Taxes arising from any payment made under any Loan Document or from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, but excluding any Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.16).

"Parent Company" means (a) Holdings and (b) any other Person of which the Borrower is an indirect Wholly-Owned Subsidiary.

"Participant" has the meaning assigned to such term in Section 9.05(c)(i).

"Participant Register" has the meaning assigned to such term in Section 9.05(c)(iii).

"Patent" means any and all (a) patents and patent applications; (b) inventions described and claimed therein, (c) reissues, divisions, continuations, renewals, extensions, and continuations-in-part thereof, (d) income, royalties, damages, claims and payments now or hereafter due or payable under and with respect thereto, including, without limitation, damages and payments for past and future infringements thereof, (e) rights to sue for past, present and future infringements thereof, and (f) rights corresponding to any of the foregoing throughout the world.

"PBGC" means the Pension Benefit Guaranty Corporation.

"Pension Plan" means any employee pension benefit plan, as defined in Section 3(2) of ERISA (other than a Multiemployer Plan), which is subject to the provisions of Title IV of ERISA or Sections 412 or 430 of the Code or Sections 302 or 303 of ERISA and which the Borrower or any of its Restricted Subsidiaries, or any of their respective ERISA Affiliates, sponsors, maintains or contributes to or has an obligation to contribute to, or with respect to which any of them has any liability, contingent or otherwise.

"Perfection Certificate" means a certificate substantially in the form of Exhibit E.

"Perfection Certificate Supplement" means a supplement to the Perfection Certificate substantially in the form of Exhibit F.

"Perfection Requirements" means the filing of appropriate financing statements with the office of the Secretary of State or other appropriate office of the state of organization of each Loan Party, the filing of appropriate grants, assignments, notices or Intellectual Property Security Agreements with the U.S. Patent and Trademark Office and the U.S. Copyright Office, the proper recording or filing, as applicable, of Mortgages and fixture filings with respect to any Material Real Estate Asset constituting Collateral and any notations on certificates of title, in each case in favor of the Administrative Agent for the benefit of the Secured Parties and the delivery to the Administrative Agent of any stock certificate or promissory note required to be delivered pursuant to the applicable Loan Documents, together with instruments of transfer executed in blank.

"Permitted Acquisition" means any acquisition made by the Borrower or any of its Restricted Subsidiaries, whether by purchase, merger or otherwise, of all or substantially all of the assets of, or any business line, unit or division of, any Person or of all of the outstanding Capital Stock of any Person who is engaged in a Similar Business and becomes a Restricted Subsidiary; provided that the total consideration paid by Persons that are Loan Parties (a) for the Capital Stock of any Person that does not become a Loan Party or is not a Loan Party, and (b) in the case of an asset acquisition, assets that are not acquired by any Loan Party, when taken together with the total consideration for all such Persons and assets so acquired after the Closing Date and all Investments made since the Closing Date pursuant to Section 6.06(b)(iii) and Section 6.06(p), shall not exceed the sum of (i) the Non-Loan Party Investment Cap and (ii) amounts otherwise available under Section 6.06 to be invested in non-Loan Parties (it being understood that amounts utilized under this clause (ii) shall be deemed a utilization of the applicable basket or exception in Section 6.06); provided that (A) the limitation described in this proviso shall not apply to any acquisition to the extent (1) any such consideration is financed with the proceeds of sales of the Qualified Capital Stock of, or common equity capital contributions to, the Borrower or any Restricted Subsidiary (but only to the extent not otherwise applied to increase the Available Amount or Available Excluded Contribution Amount, or to make Restricted Payments or Restricted Debt Payments hereunder) or (2) the Person so acquired (or the Person owning the assets so acquired) becomes a Subsidiary Guarantor within the time periods required by Section 5.12 even though such Person owns Capital Stock in Persons that are not otherwise required to become Subsidiary Guarantors, if, in the case of this clause (2), at least 70.0% of the Consolidated Adjusted EBITDA of the Person(s) acquired in such acquisition (or the Persons owning the assets so acquired) (for this purpose and for the component definitions used in the definition of "Consolidated Adjusted EBITDA", determined on a consolidated basis for such Person(s) and their respective Restricted Subsidiaries) is generated by Person(s) that will become Subsidiary Guarantors within the time periods required by Section 5.12 (i.e., disregarding any Consolidated Adjusted EBITDA generated by Restricted Subsidiaries of such Persons that are not (or will not become) Subsidiary Guarantors) and (B) in the event that the amount available under the Non-Loan Party Investment Cap is reduced as a result of any acquisition of any Restricted Subsidiary that does not become a Loan Party or any assets that are not transferred to a Loan Party and such Restricted Subsidiary subsequently becomes a Loan Party or such assets are subsequently transferred to a Loan Party, as the case may be, the amount available under the Non-Loan Party Investment Cap shall be proportionately increased as a result thereof based upon the amount of the Non-Loan Party Investment Cap utilized with respect to the acquisition of such Person or assets, as the case may be; provided further that no Event of Default then exists or would result after giving pro forma effect to such acquisition, provided, further, that if such purchase or other acquisition is a Limited Conditionality Acquisition, and the Borrower makes an LCA Election with respect to such Limited Conditionality Acquisition, the foregoing condition shall be tested as of the LCA Test Date, so long as upon consummation of such acquisition, no Event of Default under Section 7.01(a), 7.01(f) (solely with respect to the Borrower) or 7.01(g) (solely with respect to the Borrower) shall exist.

"Permitted Holders" means, collectively, (i) the Sponsor, (ii) Nuveen Alternatives Advisors, LLC, BBCP Investors, LLC, Lead Common Investor, Institutional Investors, and their respective Fund Affiliates; and (iii) the Non-Management Equityholders and the Management Equityholders (or, in each case, within sixty (60) days after their death or incapacity, one or more successors acceptable to the Administrative Agent).

"Permitted Liens" means Liens permitted pursuant to Section 6.02.

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

"Plan" means an "employee benefit plan" as defined in Section 3(3) of ERISA (regardless of whether such plan is subject to ERISA) that the Borrower or any of its Restricted Subsidiaries sponsors, maintains or contributes to or has an obligation to contribute to, or otherwise has liability, contingent or otherwise.

"Platform" has the meaning set forth in Section 5.01.

"Prepayment Asset Sale" means any Disposition by the Borrower or any of its Restricted Subsidiaries made pursuant to Section 6.07(h), Section 6.07(o) and Section 6.07(x); provided that so long as the ABL Facility is in effect, any such sale or disposition of any ABL Facility Priority Collateral to the extent the net proceeds of which are required to be applied to repay the loans under the ABL Facility shall not be considered a "Prepayment Asset Sale" for any purpose under this Agreement.

"primary obligor" has the meaning assigned to such term in the definition of "Guarantee".

"Prime Rate" means the rate of interest per annum determined from time to time by Credit Suisse as its prime rate in effect at its principal office in New York City and notified to the Borrower.

"Pro Forma Basis" or "pro forma effect" means, with respect to any determination of the First Lien Leverage Ratio, the Total Leverage Ratio, the Secured Leverage Ratio, Interest Coverage Ratio or Consolidated Adjusted EBITDA (including component definitions thereof) that all Subject Transactions shall be deemed to have occurred as of the first day of the applicable Test Period with respect to any test or covenant for which such calculation is being made and that:

(a) (i) in the case of (A) any Disposition of all or substantially all Capital Stock of any Restricted Subsidiary of the Borrower or any division or product line of the Borrower or any of its Restricted Subsidiaries, (B) any designation of a Restricted Subsidiary as an Unrestricted Subsidiary and (C) the implementation of any Cost Saving Initiative, income statement items (whether positive or negative and including any Expected Cost Savings) attributable to the property or Person disposed of, designated or otherwise no longer part of the ongoing operations of the Borrower and its Restricted Subsidiaries as a result of such Subject Transaction, shall be excluded as of the first day of the applicable Test Period with respect to any test or covenant for which the relevant determination is being made and (ii) in the case of any acquisition, Investment and/or designation of an Unrestricted Subsidiary as a Restricted Subsidiary described in the definition of the term "Subject Transaction", income statement items (whether positive or negative) attributable to the property or Person subject to such Subject Transaction shall be included as of the first day of the applicable Test Period with respect to any test or covenant for which the relevant determination is being made; provided that the foregoing pro forma adjustments may be applied to any such test or covenant solely to the extent that such adjustments are consistent with the definition of "Consolidated Adjusted EBITDA",

(b) any retirement or repayment of Indebtedness shall be deemed to have occurred as of the first day of the applicable Test Period with respect to any test or covenant for which the relevant determination is being made, and

(c) any Indebtedness incurred by the Borrower or any of its Restricted Subsidiaries in connection therewith shall be deemed to have occurred as of the first day of the applicable Test Period with respect to any test or covenant for which the relevant determination is being made; provided that, (x) if such Indebtedness has a floating or formula rate, such Indebtedness shall have an implied rate of interest for the applicable Test Period for purposes of this definition determined by utilizing the rate that is or would be in effect with respect to such Indebtedness at the relevant date of determination (taking into account any interest hedging arrangements applicable to such Indebtedness), (y) interest on any obligation with respect to any Capital Lease shall be deemed to accrue at an interest rate reasonably determined by a Responsible Officer of the Borrower to be the rate of interest implicit in such obligation in accordance with GAAP and (z) interest on any Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a Eurodollar interbank offered rate or other rate shall be determined to have been based upon the rate actually chosen, or if none, then based upon such optional rate chosen by the Borrower.

Notwithstanding anything to the contrary set forth in this definition, for the avoidance of doubt, when calculating the First Lien Leverage Ratio for the purpose of calculating the Required Excess Cash Flow Percentage, the events described in the immediately preceding paragraph that occurred subsequent to the end of the applicable Excess Cash Flow Period shall not be given pro forma effect.

"Proceeding" has the meaning assigned to such term in Section 9.03(b).

"Projections" means the financial projections and pro forma financial statements of the Borrower and its subsidiaries included in the Information Memorandum (or a supplement thereto).

"Promissory Note" means a promissory note of the Borrower payable to any Lender or its registered assigns, in substantially the form of Exhibit G hereto, evidencing the aggregate outstanding principal amount of Loans of the Borrower to such Lender resulting from the Loans made by such Lender.

"PTE" means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

"Public Company Costs" means Charges of Holdings, Intermediate Holdings, the Borrower or its subsidiaries associated with, or in anticipation of, or preparation for, compliance with the requirements of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith and Charges relating to compliance with the provisions of the Securities Act and the Exchange Act (and, in each case, similar Requirements of Law under other jurisdictions), as applicable to companies with equity or debt securities held by the public, the rules of national securities exchange companies with listed equity or debt securities, directors' or managers' compensation, fees and expense reimbursement, indemnities, disbursements, Charges relating to investor relations, shareholder meetings and reports to shareholders or debtholders, directors' and officers' insurance and other executive costs, legal and other professional fees and listing fees.

"Public Lender" has the meaning set forth in Section 5.01.

"Qualified Capital Stock" of any Person means any Capital Stock of such Person that is not Disqualified Capital Stock.

"Qualifying Offering" means the issuance and sale by the Borrower or any Parent Company of its common Capital Stock in a primary offering (other than a public offering pursuant to a registration statement on Form S-8) pursuant to which Net Proceeds are received by any Parent Company and contributed to the Borrower.

"Real Estate Asset" means, at any time of determination, all right, title and interest (fee, leasehold or otherwise) of any Loan Party in and to real property (including, but not limited to, land, improvements and fixtures thereon).

"Refinancing Amendment" means an amendment to this Agreement that is reasonably satisfactory to the Administrative Agent and the Borrower executed by (a) Holdings, Intermediate Holdings and the Borrower, (b) the Administrative Agent and (c) each Lender that agrees to provide all or any portion of the Replacement Term Loans, as applicable, being incurred pursuant thereto and in accordance with Section 9.02(c).

"Refinancing Indebtedness" has the meaning assigned to such term in Section 6.01(m).

"Register" has the meaning assigned to such term in Section 9.05(b)(iv).

"Regulation D" means Regulation D of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

"Regulation U" means Regulation U of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

"Regulation X" means Regulation X of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

"Related Funds" means with respect to any Lender that is an Approved Fund, any other Approved Fund that is managed by the same investment advisor as such Lender or by an Affiliate of such investment advisor.

"Related Parties" means, with respect to any specified Person, such Person's Affiliates and the respective directors, managers, officers, trustees, employees, partners, agents, advisors and other representatives of such Person and such Person's Affiliates (other than, in any case, any Disqualified Institution).

"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, sediment, surface water or groundwater.

"Replaced Term Loans" has the meaning assigned to such term in Section 9.02(c).

"Replacement Term Loans" has the meaning assigned to such term in Section 9.02(c).

"Representative" has the meaning assigned to such term in Section 9.13.

"Repricing Transaction" means each of (a) the prepayment, repayment, refinancing, substitution, repricing or replacement of all or a portion of the Initial Term Loans substantially concurrently with the incurrence or guarantee by any Loan Party of any secured term loans (including any Replacement Term Loans) having an Effective Yield that is less than the Effective Yield applicable to the Initial Term Loans so prepaid, repaid, refinanced, substituted, repriced or replaced and (b) any amendment, waiver or other modification to this Agreement that would have the effect of reducing the Effective Yield applicable to the Initial Term Loans; provided that the primary purpose of such prepayment, repayment, refinancing, substitution, replacement, amendment, waiver or other modification was to reduce the Effective Yield applicable to the Initial Term Loans; provided, further, that in no event shall any such prepayment, repayment, refinancing, substitution, replacement, amendment, waiver or other modification in connection with a Change of Control or Transformative Acquisition constitute a Repricing Transaction. Any determination by the Administrative Agent of the Effective Yield for purposes of the definition shall be conclusive and binding on all Lenders, and the Administrative Agent shall have no liability to any Person with respect to such determination absent bad faith, gross negligence or willful misconduct.

"Required Excess Cash Flow Percentage" means, with respect to any Excess Cash Flow Period, (a) if the First Lien Leverage Ratio as of the last day of such Excess Cash Flow Period is greater than 3.70, 75%, (b) if the First Lien Leverage Ratio as of the last day of such Excess Cash Flow Period is less than or equal to 3.70 and greater than 3.20, 50%, (c) if the First Lien Leverage Ratio as of the last day of such Excess Cash Flow Period is less than or equal to 3.20 and greater than 2.70, 25%, and (d) if the First Lien Leverage Ratio as of the last day of such Excess Cash Flow Period is less than or equal to 2.70, 0%; provided that the calculation of First Lien Leverage Ratio for purposes of this definition shall be subject to the final paragraph of the definition of "Pro Forma Basis".

"Required Lenders" means, at any time, Lenders having Loans or unused Commitments representing more than 50% of the sum of the total Loans and such unused Commitments at such time.

"Requirements of Law" means, with respect to any Person, collectively, the common law and all federal, state, local, foreign, multinational or international laws, statutes, codes, treaties, rules and regulations, guidelines, ordinances, orders, judgments, writs, injunctions, decrees (including administrative or judicial precedents or authorities) and the interpretation or administration thereof by, and other determinations, directives, requirements of any Governmental Authority, in each case that are applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Responsible Officer" means, with respect to any Person, the chief executive officer, the president, the chief financial officer, the treasurer, any assistant treasurer, any executive vice president, any senior vice president, any vice president or the chief operating officer of such Person and any other individual or similar official thereof responsible for the administration of the obligations of such Person in respect of this Agreement, and, as to any document delivered on the Closing Date, shall include any secretary or assistant secretary or any other individual or similar official thereof with substantially equivalent responsibilities of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of any Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party, and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

"Responsible Officer Certification" means, with respect to the financial statements for which such certification is required, the certification of a Responsible Officer of Holdings that such financial statements fairly present, in all material respects, in accordance with GAAP, the consolidated financial condition of Holdings as at the dates indicated and its consolidated income and cash flows for the periods indicated, subject to changes resulting from audit and normal year-end adjustments.

"Restricted Amount" has the meaning set forth in Section 2.08(b)(iv)(B).

"Restricted Debt" has the meaning set forth in Section 6.04(b).

"Restricted Debt Payment" has the meaning set forth in Section 6.04(b).

"Restricted Payment" means (a) any dividend or other distribution on account of any shares of any class of the Capital Stock of the Borrower, except a dividend payable solely in shares of Qualified Capital Stock to the holders of such class; (b) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value of any shares of any class of the Capital Stock of the Borrower and (c) 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 the Capital Stock of the Borrower now or hereafter outstanding.

"Restricted Subsidiary" means, as to any Person, any subsidiary of such Person that is not an Unrestricted Subsidiary. Unless otherwise specified, "Restricted Subsidiary" shall mean any Restricted Subsidiary of the Borrower.

"Retained Excess Cash Flow Amount" means, at any date of determination, an amount, not less than zero and determined on a cumulative basis, that is equal to the aggregate cumulative sum of Excess Cash Flow that is not required to be applied as a mandatory prepayment under Section 2.08(b)(i) (without giving effect to clause (B)(1) or (B)(2) thereof or to Section 2.08(b)(iv), but giving effect to the proviso at the end of Section 2.08(b)(i)) for all Excess Cash Flow Periods ending after the Closing Date and prior to such date of determination.

"Rollover Equity" has the meaning assigned to such term in Section 4.01(o)(iii).

"S&P" means Standard & Poor's Ratings Services or any successor by merger or consolidation to its business.

"Sale and Lease-Back Transaction" means any transaction under which the Borrower or any of its Restricted Subsidiaries shall, directly or indirectly, become or remain liable as lessee or as a guarantor or other surety with respect to any lease of any property (whether real, personal or mixed), whether now owned or hereafter acquired, which the Borrower or the relevant Restricted Subsidiary (a) is to sell or to transfer to any other Person (other than the Borrower or any of its Restricted Subsidiaries) and (b) intends to use for substantially the same purpose as the property which has been or is to be sold or transferred by the Borrower or such Restricted Subsidiary to any Person (other than the Borrower or any of its Restricted Subsidiaries) in connection with such lease.

"Sanctions" means all economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by OFAC or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, any European Union member state or Her Majesty's Treasury of the United Kingdom.

"Sanctioned Country" means, at any time, a country, region or territory which is itself the subject or target of any Sanctions (on the Closing Date, Crimea, Cuba, Iran, North Korea and Syria).

"Scheduled Unavailability Date" has the meaning assigned to such term in Section 2.11(b).

"SEC" means the Securities and Exchange Commission, or any Governmental Authority succeeding to any or all of its functions.

"Secured Hedging Obligations" means all Hedging Obligations (other than any Excluded Swap Obligation) under each Hedge Agreement that (a) is in effect on the Closing Date between any Loan Party and a counterparty that is the Administrative Agent, a Lender or an Arranger or any Affiliate of the Administrative Agent, a Lender or an Arranger as of the Closing Date or (b) is entered into after the Closing Date between any Loan Party and any counterparty that is (or is an Affiliate of) the Administrative Agent, any Lender or any Arranger at the time such Hedge Agreement is entered into, for which such Loan Party agrees to provide security and in each case that has been designated to the Administrative Agent in writing by the Borrower as being a Secured Hedging Obligation for purposes of the Loan Documents, it being understood that each counterparty thereto shall be deemed (A) to appoint the Administrative Agent as its agent under the applicable Loan Documents and (B) to agree to be bound by the provisions of Article 8, Section 9.03, Section 9.10 and the Intercreditor Agreement as if it were a Lender.

"Secured Leverage Ratio" means the ratio, as of any date of determination, of (a) Consolidated Secured Debt as of such date to (b) Consolidated Adjusted EBITDA for the Test Period then most recently ended, in each case of the Borrower and its Restricted Subsidiaries on a consolidated basis.

"Secured Obligations" means all Obligations, together with (a) all Banking Services Obligations and (b) all Secured Hedging Obligations; provided that Banking Services Obligations and Secured Hedging Obligations shall cease to constitute Secured Obligations on and after the Termination Date.

"Secured Parties" means (i) the Lenders, (ii) the Administrative Agent, (iii) each counterparty to a Hedge Agreement with a Loan Party the obligations under which constitute Secured Hedging Obligations, (iv) each provider of Banking Services to any Loan Party the obligations under which constitute Banking Services Obligations and (v) the beneficiaries of each indemnification obligation undertaken by any Loan Party under any Loan Document.

"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; provided that "Securities" shall not include any earn-out agreement or obligation or any employee bonus or other incentive compensation plan or agreement.

"Securities Act" means the Securities Act of 1933 and the rules and regulations of the SEC promulgated thereunder.

"Security Agreement" means the Term Loan Pledge and Security Agreement, substantially in the form of Exhibit J, among the Loan Parties and the Administrative Agent for the benefit of the Secured Parties.

"Similar Business" means any Person the majority of the revenues of which are derived from a business that would be permitted by Section 6.13 if the references to "Restricted Subsidiaries" in Section 6.13 were read to refer to such Person.

"SPC" has the meaning assigned to such term in Section 9.05(e).

"Specified Acquisition Agreement Representations" means the representations made by or on behalf of the Target, its subsidiaries or their respective businesses in the Acquisition Agreement as are material to the interests of the Lenders, but only to the extent that the Borrower or the Borrower's applicable Affiliate shall have the right (giving effect to applicable cure periods) to terminate the Borrower's (or such Affiliate's) obligations under the Acquisition Agreement or to decline to consummate the Acquisition as a result of a breach of such representations in the Acquisition Agreement.

"Specified Representations" mean the representations and warranties set forth in Section 3.01(a) (as it relates to organizational existence of the Loan Parties), Section 3.02 (as it relates to corporate or organizational power or authority (in connection with the due authorization, execution, delivery and performance of the Loan Documents) and the enforceability thereof), Section 3.03(b)(i), Section 3.08, Section 3.12 (as it relates to the creation, validity and perfection of the security interests in the Collateral), Section 3.14, Section 3.15(b) (limited to subclause (ii) thereof and the last sentence thereof solely as it relates to use of proceeds) and Section 3.16.

"Sponsor" means Argand Partners LP, and its affiliates and its funds, partnerships or other co-investment vehicles managed, advised or controlled by the foregoing.

"Sponsor Equity Contributions" has the meaning assigned to such term in Section 4.01(o)(ii).

"Sponsor Fees" means (i) any fee paid or payable to the Sponsor and its Affiliates pursuant to any Sponsor Management Agreement and (ii) any fee paid or payable to the Sponsor (or any Person that is an Affiliate of, or otherwise employed by, the Sponsor) that is in respect of the Sponsor's (or such Person's) service as a member of the board of directors (or similar governing body) of Holdings, Intermediate Holdings, Borrower or any of its Restricted Subsidiaries; provided that (a) the aggregate amount of all such fees payable pursuant to the foregoing clauses (i) and (ii) in any Fiscal Year shall not exceed $1,000,000, plus the amount of any such fees that have accrued but were not permitted to be paid under Section 6.08(o) due to the occurrence and continuance of an Event of Default, and (b) Sponsor Fees shall not include any amounts attributable to the payment or reimbursement of reasonable out-of-pocket costs to, and indemnities provided on behalf of, the Sponsor or such Person either (x) in connection with management, monitoring, consulting and advisory services provided by them to Holdings, Intermediate Holdings, Borrower or any of its Restricted Subsidiaries or (y) serving in its, his or her capacity as a member of the board of directors (or similar governing body) of Holdings, Intermediate Holdings, Borrower or any of its Restricted Subsidiaries.

"Sponsor Management Agreement" means any management, monitoring, consulting or advisory services agreement entered into from time to time between the Sponsor and/or its Affiliates and Holdings, Intermediate Holdings, Borrower or any of its Restricted Subsidiaries, in each case in form and substance reasonably satisfactory to the Administrative Agent, and without giving effect to any amendments, modifications or supplements thereto unless such amendments, modifications or supplements are in form and substance reasonably satisfactory to the Administrative Agent.

"Statutory Reserve Rate" means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Board to which the Administrative Agent is subject with respect to the Adjusted Eurodollar Rate, for Eurodollar funding (currently referred to as "Eurodollar Liabilities" in Regulation D). Such reserve percentages shall include those imposed pursuant to such Regulation D. Eurodollar Rate Loans shall be deemed to constitute Eurodollar funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

"Subject Agreement" has the meaning specified in the definition of "Limited Conditionality Acquisition".

"Subject Loans" has the meaning assigned to such term in Section 2.08(b)(ii).

"Subject Person" has the meaning assigned to such term in the definition of "Consolidated Net Income".

"Subject Proceeds" has the meaning assigned to such term in Section 2.08(b)(ii).

"Subject Transaction" means, with respect to any Test Period, (a) the Transactions, (b) any Permitted Acquisition or any other acquisition, whether by purchase, merger or otherwise, of all or substantially all of the assets of, or any business line, unit or division of, any Person or of a majority of the outstanding Capital Stock of any Person in each case that occurred prior to the Closing Date or, if consummated after the Closing Date, is permitted by this Agreement, (c) any Disposition of all or substantially all of the assets or Capital Stock of any subsidiary (or any business unit, line of business or division of the Borrower or a Restricted Subsidiary) not prohibited by this Agreement, (d) the designation of a Restricted Subsidiary as an Unrestricted Subsidiary or an Unrestricted Subsidiary as a Restricted Subsidiary in accordance with Section 5.10 hereof, (e) any incurrence or repayment of Indebtedness in connection with a transaction that would otherwise constitute a Subject Transaction, (f) the implementation of any Cost Saving Initiative and/or (g) any other event that by the terms of the Loan Documents requires pro forma compliance with a test or covenant hereunder or requires such test or covenant to be calculated on a Pro Forma Basis.

"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 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 such Person or one or more of the other subsidiaries of such Person or a combination thereof; provided that in determining the percentage of ownership interests of any Person controlled by another Person, no ownership interests in the nature of a "qualifying share" of the former Person shall be deemed to be outstanding. Unless otherwise specified, "subsidiary" shall mean any subsidiary of the Borrower.

"Subsidiary Guarantor" means (x) on the Closing Date, each subsidiary of the Borrower (other than any such subsidiary that is an Excluded Subsidiary on the Closing Date) and (y) thereafter, each subsidiary of the Borrower that becomes a guarantor of the Secured Obligations pursuant to the terms of this Agreement, in each case, until such time as the relevant subsidiary is released from its obligations under the Loan Guaranty in accordance with the terms and provisions hereof.

"Successor Borrower" has the meaning assigned to such term in Section 6.07(a).

"Successor Buyer" has the meaning assigned to such term in Section 6.11(d).

"Successor Holdings" has the meaning assigned to such term in Section 6.11(d).

"Successor Intermediate Holdings" has the meaning assigned to such term in Section 6.11(d).

"Swap Obligation" means, with respect to any Loan Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of Section 1a(47) of the Commodity Exchange Act.

"Target" has the meaning assigned to such term in the Recitals to this Agreement.

"Target Refinancing" has the meaning assigned to such term in Section 4.01(l).

"Taxes" means any and all present and future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Term Commitment" means any Initial Term Commitment and any Additional Term Loan Commitment.

"Term Facility" means the Term Loans provided to or for the benefit of the Borrower pursuant to the terms of this Agreement.

"Term Lender" means any Initial Term Lender and any Additional Term Lender.

"Term Loan" means the Initial Term Loans and if applicable, any Additional Term Loans.

"Term Loan Maturity Date" means the date that is seven years after the Closing Date.

"Term Loan Priority Collateral" has the meaning assigned to such term in the Intercreditor Agreement.

"Termination Date" has the meaning assigned to such term in the lead-in to Article 5.

"Test Period" means, as of any date, the period of four consecutive Fiscal Quarters then most recently ended for which financial statements under Section 5.01(a) or (b), as applicable, have been delivered (or are required to have been delivered); it being understood and agreed that prior to the first delivery of financial statements of Section 5.01(a), "Test Period" means the period of four consecutive Fiscal Quarters in respect of which financial statements for the Target are available and have been delivered to the Administrative Agent.

"Threshold Amount" means $30,000,000.

"Total Leverage Ratio" means the ratio, as of any date of determination, of (a) Consolidated Total Debt outstanding as of such date to (b) Consolidated Adjusted EBITDA for the Test Period then most recently ended, in each case of the Borrower and its Restricted Subsidiaries on a consolidated basis.

"Trademark" means any and all (a) trademarks (including service marks), common law marks, trade names, trade dress, and logos, slogans and other indicia of origin under the Requirements of Laws of any jurisdiction in the world, and the registrations and applications for registration thereof and the goodwill of the business symbolized by the foregoing, (b) renewals of the foregoing, (c) income, royalties, damages, and payments now or hereafter due or payable with respect thereto, including, without limitation, damages, claims, and payments for past and future infringements thereof, (d) rights to sue for past, present and future infringements of the foregoing, including the right to settle suits involving claims and demands for royalties owing, and (e) rights corresponding to any of the foregoing throughout the world.

"Transaction Costs" means fees, premiums, expenses and other transaction costs (including original issue discount or upfront fees) payable or otherwise borne by Holdings and/or its subsidiaries in connection with the Transactions and the transactions contemplated thereby.

"Transactions" means, collectively, (a) the execution and delivery by the Loan Parties of the Loan Documents to which they are a party and the borrowing of Initial Term Loans hereunder on the Closing Date, (b) the Merger and the other transactions contemplated by the Acquisition Agreement, (c) the Equity Contributions, (d) the Target Refinancing, (e) the execution and delivery by the Loan Parties of the Loan Documents (as defined in the ABL Credit Agreement) to which they are a party and (f) the payment of Transaction Costs.

"Transformative Acquisition" means any acquisition or Investment by the Borrower or any Restricted Subsidiary that either (a) is not permitted by the terms hereof immediately prior to the consummation of such acquisition or Investment or (b) if permitted by the terms hereof immediately prior to the consummation of such acquisition or Investment, would not provide the Borrower and its subsidiaries with adequate flexibility under the Loan Documents for the continuation and/or expansion of their combined operations following such consummation, as determined by the Borrower acting in good faith.

"Type", when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted Eurodollar Rate or the Alternate Base Rate.

"UCC" means the Uniform Commercial Code as in effect from time to time in the State of New York or any other state the laws of which are required to be applied in connection with the creation or perfection of security interests.

"Unrestricted Cash Amount" means, as of any date of determination, the amount of (a) unrestricted Cash and Cash Equivalents of the Borrower and its Restricted Subsidiaries whether or not held in a Deposit Account pledged to secure the Secured Obligations and (b) Cash and Cash Equivalents of the Borrower and its Restricted Subsidiaries restricted in favor of the Term Facility (which may also include Cash and Cash Equivalents securing other Indebtedness that is secured by a Lien on the Collateral along with the Term Facility, including the ABL Facility).

"Unrestricted Subsidiary" means any subsidiary of the Borrower designated by the Borrower as an Unrestricted Subsidiary after the Closing Date pursuant to Section 5.10.

"U.S." means the United States of America.

"U.S. Tax Compliance Certificate" has the meaning assigned to such term in Section 2.14(f).

"USA PATRIOT Act " means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001)).

"Weighted Average Life to Maturity " means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (b) the then outstanding principal amount of such Indebtedness.

"Wholly-Owned Subsidiary" of any Person means a subsidiary of such Person, 100% of the Capital Stock of which (other than directors' qualifying shares or shares required by Requirements of Law to be owned by a resident of the relevant jurisdiction) shall be owned by such Person or by one or more Wholly-Owned Subsidiaries of such Person.

"Withholding Agent" means any Loan Party and the Administrative Agent.

"Write-Down and Conversion Powers" means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

Section 1.02 Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (*e.g.*, an "Initial Term Loan") or by Type (*e.g.,* a "Eurodollar Rate Loan") or by Class and Type (*e.g.*, a "Eurodollar Rate Term Loan"). Borrowings also may be classified and referred to by Class (*e.g.*, an "Initial Term Loan Borrowing") or by Type (*e.g.*, a "Eurodollar Rate Borrowing") or by Class and Type (*e.g.*, a "Eurodollar Rate Term Loan Borrowing").

Section 1.03 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 or in any Loan Document (including any Loan Document and the ABL Credit Agreement) shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, amended and restated, supplemented or otherwise modified or extended, replaced or refinanced (subject to any restrictions or qualifications on such amendments, restatements, amendment and restatements, supplements or modifications or extensions, replacements or refinancings set forth herein), (b) any reference to any Requirement of Law in any Loan Document shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Requirement of Law, (c) any reference herein or in any Loan Document to any Person shall be construed to include such Person's successors and permitted assigns, and, in the case of any Governmental Authority, any other Governmental Authority that shall have succeeded to any or all functions thereof, (d) the words "herein," "hereof" and "hereunder," and words of similar import, when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision hereof, (e) all references herein or in any Loan Document to Articles, Sections, clauses, paragraphs, Exhibits and Schedules shall be construed to refer to Articles, Sections, clauses and paragraphs of, and Exhibits and Schedules to, such Loan Document, (f) in the computation of periods of time in any Loan Document from a specified date to a later specified date, the word "from" means "from and including", the words "to" and "until" mean "to but excluding" and the word "through" means "to and including" and (g) the words "asset" and "property", when used in any Loan Document, 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, Cash Equivalents, securities, accounts and contract rights. For purposes of determining compliance at any time with Sections 6.01, 6.02, 6.03, 6.04, 6.05, 6.06, 6.07 and 6.08, in the event that any Indebtedness, Lien, contractual restriction, Restricted Payment, Restricted Debt Payment, Investment, Disposition or Affiliate transaction, as applicable, meets the criteria of more than one of the categories of transactions or items permitted pursuant to any clause of such Sections 6.01 (other than Sections 6.01(a), (r) and (s)), 6.02 (other than Sections 6.02(a) and (r)), 6.03, 6.04, 6.05, 6.06, 6.07 and 6.08, the Borrower, in its sole discretion, may, from time to time, classify (but not reclassify) such transaction or item (or portion thereof) within a covenant and will only be required to include the amount and type of such transaction (or portion thereof) in any one category. It is understood and agreed that any Indebtedness, Lien, contractual restriction, Restricted Payment, Restricted Debt Payment, Investment, Disposition and/or Affiliate transaction need not be permitted solely by reference to one category of permitted Indebtedness, Lien, Restricted Payment, Restricted Debt Payment, Investment, Disposition and/or Affiliate transaction under Sections 6.01, 6.02, 6.03, 6.04, 6.05, 6.06, 6.07 or 6.08, respectively, but may instead be permitted in part under any combination thereof.

Section 1.04 Accounting Terms; GAAP.

(a) All financial statements to be delivered pursuant to this Agreement shall be prepared in accordance with GAAP as in effect from time to time and, except as otherwise expressly provided herein, all terms of an accounting or financial nature that are used in calculating the Interest Coverage Ratio, the First Lien Leverage Ratio, Total Leverage Ratio, the Secured Leverage Ratio or Consolidated Adjusted EBITDA shall be construed and interpreted in accordance with GAAP, as in effect from time to time; provided that if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the date of delivery of the financial statements described in Section 3.04(a) in GAAP or in the application thereof (including the conversion to IFRS as described below) on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change becomes effective until such notice shall have been withdrawn or such provision amended in accordance herewith; provided, further, that if such an amendment is requested by the Borrower or the Required Lenders, then the Borrower and the Administrative Agent shall negotiate in good faith to enter into an amendment of the relevant affected provisions (without the payment of any amendment or similar fee to the Lenders) to preserve the original intent thereof in light of such change in GAAP or the application thereof; provided, further, that all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made without giving effect to (i) any election under Accounting Standards Codification 825-10-25 (previously referred to as Statement of Financial Accounting Standards 159) (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Borrower or any subsidiary at "fair value," as defined therein and (ii) any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof. If the Borrower notifies the Administrative Agent that Holdings is required to report under IFRS or has elected to do so through an early adoption policy, "GAAP" shall mean international financial reporting standards pursuant to IFRS (provided that after such conversion, Holdings cannot elect to report under GAAP).

(b) Notwithstanding anything to the contrary contained in paragraph (a) above or in the definition of "Capital Lease," only those leases (assuming for purposes hereof that such leases were in existence on the date hereof) that would constitute Capital Leases in conformity with GAAP on the Closing Date shall be considered Capital Leases and all calculations and deliverables under this Agreement or any other Loan Document shall be made or delivered, as applicable, in accordance therewith.

Section 1.05 Effectuation of Transactions. Each of the representations and warranties contained in this Agreement (and all corresponding definitions) are made after giving effect to the Transactions, unless the context otherwise requires.

Section 1.06 Timing of Payment of Performance. When payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or required on a day which is not a Business Day, the date of such payment (other than as described in the definition of Interest Period) or performance shall extend to the immediately succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension.

Section 1.07 Times of Day. Unless otherwise specified herein, all references herein to times of day shall be references to New York City time (daylight or standard, as applicable).

Section 1.08 Currency Equivalents Generally.

(a) For purposes of any determination under Section 2.19, Article 5, Article 6 (other than the calculation of compliance with any financial ratio for purposes of taking any action hereunder) or Article 6 with respect to the amount of any Indebtedness, Lien, Restricted Payment, Restricted Debt Payment, Investment, Disposition, Sale and Lease-Back Transaction, affiliate transaction or other transaction, event or circumstance, or any determination under any other provision of this Agreement, (any of the foregoing, a "specified transaction"), in a currency other than Dollars, (i) the Dollar equivalent amount of a specified transaction in a currency other than Dollars shall be calculated based on the rate of exchange quoted by the Bloomberg Foreign Exchange Rates & World Currencies Page (or any successor page thereto, or in the event such rate does not appear on any Bloomberg Page, by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Administrative Agent and the Borrower) for such foreign currency, as in effect at 11:00 a.m. (London time) on the date of such specified transaction (which, in the case of any Restricted Payment, shall be deemed to be the date of the declaration thereof and, in the case of the incurrence of Indebtedness, shall be deemed to be on the date first committed); provided, that if any Indebtedness is incurred (and, if applicable, associated Lien granted) to refinance or replace other Indebtedness denominated in a currency other than Dollars, and the relevant refinancing or replacement would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing or replacement, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing or replacement Indebtedness (and, if applicable, associated Lien granted) does not exceed an amount sufficient to repay the principal amount of such Indebtedness being refinanced or replaced, except by an amount equal to (x) unpaid accrued interest and premiums (including tender premiums) thereon plus other reasonable and customary fees and expenses (including upfront fees and original issue discount) incurred in connection with such refinancing or replacement, (y) any existing commitments unutilized thereunder and (z) additional amounts permitted to be incurred under Section 6.01 (it being understood that amounts utilized under this clause (z) shall be deemed a utilization of the applicable basket or exception to Section 6.01) and (ii) for the avoidance of doubt, no Default or Event of Default shall be deemed to have occurred solely as a result of a change in the rate of currency exchange occurring after the time of any specified transaction so long as such specified transaction was permitted at the time incurred, made, acquired, committed, entered or declared as set forth in clause (i). For purposes of calculation of compliance with any financial ratio for purposes of taking any action hereunder, on any relevant date of determination, amounts denominated in currencies other than Dollars shall be translated into Dollars at the applicable currency exchange rate used in preparing the financial statements delivered pursuant to Section 5.01(a) or (b) (or, prior to the first such delivery, the financial statements referred to in Section 3.04), as applicable, for the relevant Test Period and will, with respect to any Indebtedness, reflect the currency translation effects, determined in accordance with GAAP, of any Hedge Agreement permitted hereunder in respect of currency exchange risks with respect to the applicable currency in effect on the date of determination for the Dollar equivalent amount of such Indebtedness.

(b) Each provision of this Agreement shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify with the Borrower's consent to appropriately reflect a change in currency of any country and any relevant market convention or practice relating to such change in currency.

Section 1.09 Cashless Rollovers. Notwithstanding anything to the contrary contained in this Agreement or in any other Loan Document, to the extent that any Lender extends the maturity date of, or replaces, renews or refinances, any of its then-existing Loans with Incremental Loans, Replacement Term Loans, Extended Term Loans or loans incurred under a new credit facility, in each case, to the extent that such extension, replacement, renewal or refinancing is effected by means of a "cashless roll" by such Lender, such extension, replacement, renewal or refinancing shall be deemed to comply with any requirement hereunder or any other Loan Document that such payment be made "in Dollars", "in immediately available funds", "in Cash" or any other similar requirement.

Section 1.10 Certain Calculations and Tests.

(a) Notwithstanding anything to the contrary herein, all financial ratios, calculations and tests (including the Interest Coverage Ratio, First Lien Leverage Ratio, the Total Leverage Ratio, the Secured Leverage Ratio and Consolidated Adjusted EBITDA) contained in this Agreement that are calculated with respect to any Test Period during which any Subject Transaction occurs shall be calculated with respect to such Test Period and such Subject Transaction on a Pro Forma Basis. Further, if since the beginning of any such Test Period and on or prior to the date of any required calculation of any financial ratio or test (x) any Subject Transaction has occurred or (y) any Person that subsequently became a Restricted Subsidiary or was merged, amalgamated or consolidated with or into the Borrower or any of its Restricted Subsidiaries or any joint venture since the beginning of such Test Period has consummated any Subject Transaction, then, in each case, any applicable financial ratio or test shall be calculated on a Pro Forma Basis for such Test Period as if such Subject Transaction had occurred at the beginning of the applicable Test Period.

(b) For purposes of determining the permissibility of any action, change, transaction or event that requires a calculation of any financial ratio or test (including, without limitation, any Interest Coverage Ratio test, any First Lien Leverage Ratio test, any Secured Leverage Ratio test, any Total Leverage Ratio test and/or the amount of Consolidated Adjusted EBITDA), such financial ratio or test shall be calculated at the time such action is taken (subject to clause (a) above), such change is made, such transaction is consummated or such event occurs, as the case may be, and no Default or Event of Default shall be deemed to have occurred solely as a result of a change in such financial ratio or test occurring after the time such action is taken, such change is made, such transaction is consummated or such event occurs, as the case may be.

(c) Notwithstanding anything to the contrary herein, in connection with any action required to be taken in connection with a Limited Conditionality Acquisition, for purposes of:

(i) calculating the Interest Coverage Ratio, First Lien Leverage Ratio, the Secured Leverage Ratio, the Total Leverage Ratio and other financial calculations (including, but not limited to, for purposes of Section 2.19);

(ii) testing availability under covenant baskets set forth in this Agreement (including covenant baskets measured as a percentage of Consolidated Adjusted EBITDA); or

(iii) determining the accuracy of any representations and warranties, or whether any default or event of default (or any type of default or event of default) has occurred or is continuing,

in each case, at the option of the Borrower (the Borrower's election to exercise such option in connection with any Limited Conditionality Acquisition, an "LCA Election"), the date of determination shall be deemed to be the date of the Subject Agreement (the "LCA Test Date"), and if, after giving pro forma effect to the Limited Conditionality Acquisition and the other transactions required to be entered into in connection therewith (including any incurrence or repayment of Indebtedness and the use of proceeds thereof) as of the LCA Test Date, the Borrower would have been permitted to take such action on the relevant LCA Test Date in compliance with such ratio, test or basket, such ratio, test or basket shall be deemed to have been complied with. For the avoidance of doubt, if the Borrower has made an LCA Election and any of the ratios, tests or baskets for which compliance was determined or tested as of the LCA Test Date are exceeded as a result of fluctuations in any such ratio, test or basket, including due to fluctuations in Consolidated Adjusted EBITDA of the Borrower or the Person subject to such Limited Conditionality Acquisition, at or prior to the consummation of the relevant transaction or action, such baskets, tests or ratios will not be deemed to have been exceeded as a result of such fluctuations. If the Borrower has made an LCA Election for any Limited Conditionality Acquisition, then in connection with any calculation of any ratio, test or basket availability with respect to any transaction following the relevant LCA Test Date and prior to the earlier of the date on which such Limited Conditionality Acquisition is consummated or the date that the Subject Agreement is terminated or expires without consummation of such Limited Conditionality Acquisition, for purposes of determining whether any such required transaction is permitted under this Agreement, any such ratio, test or basket shall be calculated on a Pro Forma Basis assuming such Limited Conditionality Acquisition and such other required transaction (including any incurrence of Indebtedness and the use of proceeds thereof) have been consummated.

(d) Notwithstanding anything to the contrary herein, with respect to any amounts incurred or transactions entered into (or consummated) in reliance on a provision of this Agreement that does not require compliance with a financial ratio or test (including, without limitation, any First Lien Leverage Ratio test, any Secured Leverage Ratio test, any Total Leverage Ratio test or any Interest Coverage Ratio test) (any such amounts, the "Fixed Amounts") substantially concurrently with any amounts incurred or transactions entered into (or consummated) in reliance on a provision of this Agreement in the same covenant that requires compliance with a financial ratio or test (including, any First Lien Leverage Ratio test, any Secured Leverage Ratio test, any Total Leverage Ratio test and any Interest Coverage Ratio test) (any such amounts, the "Incurrence-Based Amounts"), (i) it is understood and agreed that the Fixed Amounts shall be disregarded in the calculation of the financial ratio or test applicable to the Incurrence-Based Amounts, but giving full pro forma effect to all applicable and related transactions (including, subject to the foregoing with respect to Fixed Amounts, any incurrence and repayments of indebtedness) and all other permitted pro forma adjustments (except that the incurrence or repayment of any debt under the ABL Facility and/or incremental facilities under the ABL Facility immediately prior to or in connection therewith shall be disregarded), and (ii) thereafter, incurrence of the portion of such indebtedness or other applicable transaction or action to be incurred under the Fixed Amounts shall be calculated.

Section 1.11 Division of Limited Liability Company. Any reference herein to a merger, transfer, consolidation, amalgamation, consolidation, assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a division of or by a limited liability company, or an allocation of assets to a series of a limited liability company (or the unwinding of such a division or allocation), as if it were a merger, transfer, consolidation, amalgamation, consolidation, assignment, sale or transfer, or similar term, as applicable, to, of or with a separate Person. Any division of a limited liability company shall constitute a separate Person hereunder (and each division of any limited liability company that is a subsidiary, Restricted Subsidiary, Unrestricted Subsidiary, joint venture or any other like term shall also constitute such a Person or entity).

ARTICLE 2
THE CREDITS

Section 2.01 Commitments.

(a) Subject to the terms and conditions set forth herein, each Initial Term Lender severally, and not jointly, agrees to make Initial Term Loans to the Borrower on the Closing Date in Dollars in a principal amount equal to its Initial Term Loan Commitment. Amounts paid or prepaid in respect of the Initial Term Loans may not be reborrowed.

(b) [Reserved].

(c) Subject to the terms and conditions of this Agreement and any applicable Refinancing Amendment or Incremental Facility Amendment, each Lender with an Additional Term Loan Commitment of a given Class, severally and not jointly, agrees to make Additional Term Loans of such Class to the Borrower, which Additional Term Loans shall not exceed for any such Lender at the time of any incurrence thereof the Additional Term Loan Commitment of such Class of such Lender as set forth in the applicable Refinancing Amendment or Incremental Facility Amendment.

Section 2.02 Loans and Borrowings.

(a) Each Loan shall be made as part of a Borrowing consisting of Loans of the same Class and Type made by the Lenders ratably in accordance with their respective Commitments of the applicable Class.

(b) Subject to Section 2.01 and Section 2.11, each Borrowing shall be comprised entirely of ABR Loans or Eurodollar Rate Loans as the Borrower may request in accordance herewith. Each Lender at its option may make any Eurodollar Rate Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided that (i) any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement, (ii) such Eurodollar Rate Loan shall be deemed to have been made and held by such Lender, and the obligation of the Borrower to repay such Loan shall nevertheless be to such Lender for the account of such domestic or foreign branch or Affiliate of such Lender and (iii) in exercising such option, such Lender shall use reasonable efforts to minimize increased costs to the Borrower resulting therefrom (which obligation of such Lender shall not require it to take, or refrain from taking, actions that it determines would result in increased costs for which it will not be compensated hereunder or that it otherwise determines would be disadvantageous to it and in the event of such request for costs for which compensation is provided under this Agreement, the provisions of Section 2.12 shall apply).

(c) At the commencement of each Interest Period for any Eurodollar Rate Borrowing, such Borrowing shall comprise an aggregate principal amount that is an integral multiple of $500,000 and not less than $1,000,000. Each ABR Borrowing when made shall be in a minimum principal amount of $100,000. Borrowings of more than one Type and Class may be outstanding at the same time; provided that there shall not at any time be more than a total of ten (10) different Interest Periods in effect for Eurodollar Rate Borrowings at any time outstanding (or such greater number of different Interest Periods as the Administrative Agent may agree from time to time).

(d) Notwithstanding any other provision of this Agreement, the Borrower shall not, nor shall it be entitled to, request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date applicable to the relevant Loans.

Section 2.03 Requests for Borrowings. Each Borrowing, each conversion of Loans from one Type to the other, and each continuation of Eurodollar Rate Loans shall be made upon irrevocable notice by the Borrower to the Administrative Agent. Each such notice must be in the form of a written Borrowing Request, appropriately completed and signed by a Responsible Officer of the Borrower or by telephone (and promptly confirmed by delivery of a written Borrowing Request, appropriately completed and signed by a Responsible Officer of the Borrower) and must be received by the Administrative Agent (by hand delivery, fax or other electronic transmission (including ".pdf" or ".tif")) not later than 1:00 p.m. (i) three Business Days prior to the requested day of any Borrowing, conversion or continuation of Eurodollar Rate Loans (or one Business Day in the case of any Eurodollar Rate Loans to be made on the Closing Date) and (ii) 11:00 a.m. one Business Day prior to the requested date of any Borrowing of ABR Loans (or, in each case, such later time as shall be acceptable to the Administrative Agent); provided, however, that if the Borrower wishes to request Eurodollar Rate Loans having an Interest Period of other than one, two, three or six months in duration as provided in the definition of "Interest Period," (A) the applicable notice from the Borrower must be received by the Administrative Agent not later than 1:00 p.m. four Business Days prior to the requested date of the relevant Borrowing, conversion or continuation, whereupon the Administrative Agent shall give prompt notice to the appropriate Lenders of such request and determine whether the requested Interest Period is approved by each Lender and (B) not later than 12:00 p.m. three Business Days before the requested date of the relevant Borrowing, conversion or continuation, the Administrative Agent shall notify the Borrower whether or not the requested Interest Period is approved by each of the appropriate Lenders.

If no election as to the Type of Borrowing is specified, then the requested Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurodollar Rate Borrowing, then the Borrower shall be deemed to have selected an Interest Period of one month's duration. The Administrative Agent shall advise each Lender of the details and amount of any Loan to be made as part of the relevant requested Borrowing (x) in the case of any ABR Borrowing, on the same Business Day of receipt of a Borrowing Request in accordance with this Section 2.03 or (y) in the case of any Eurodollar Rate Borrowing, no later than one Business Day following receipt of a Borrowing Request in accordance with this Section 2.03.

Section 2.04 Funding of Borrowings.

(a) Each Lender shall make each Loan to be made by it hereunder not later than 1:00 p.m. on the Business Day specified in the applicable Borrowing Request by wire transfer of immediately available funds to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders in an amount equal to such Lender's respective Applicable Percentage. The Administrative Agent will make such Loans available to the Borrower by promptly crediting the amounts so received, in like funds, to the account designated in the relevant Borrowing Request or as otherwise directed by the Borrower.

(b) Unless the Administrative Agent has received notice from any Lender that such Lender will not make available to the Administrative Agent such Lender's share of any Borrowing prior to the proposed date of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Section 2.04(a) and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if any Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand (without duplication) such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrower, the interest rate applicable to Loans comprising such Borrowing at such time. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing and the obligation of the Borrower to repay the Administrative Agent such corresponding amount pursuant to this Section 2.04(b) shall cease. If the Borrower pays such amount to the Administrative Agent, the amount so paid shall constitute a repayment of such Borrowing by such amount. Nothing herein shall be deemed to relieve any Lender from its obligation to fulfill its Commitment or to prejudice any rights which the Administrative Agent or the Borrower or any other Loan Party may have against any Lender as a result of any default by such Lender hereunder.

Section 2.05 Type; Interest Elections.

(a) Each Borrowing shall initially be of the Type specified in the applicable Borrowing Request and, in the case of a Eurodollar Rate Borrowing, shall have an initial Interest Period as specified in such Borrowing Request. Thereafter, the Borrower may elect to convert any Borrowing to a Borrowing of a different Type or to continue such Borrowing and, in the case of a Eurodollar Rate Borrowing, may elect Interest Periods therefor, all as provided in this Section. The Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders, based upon their Applicable Percentages and the Loans comprising each such portion shall be considered a separate Borrowing.

(b) To make an election pursuant to this Section 2.05, the Borrower shall (i) deliver an Interest Election Request, appropriately completed and signed by a Responsible Officer of the Borrower or (ii) provide telephonic notice (promptly confirmed in writing by delivery of a written Interest Election Request, appropriately completed and signed by a Responsible Officer of the Borrower) of the applicable election to the Administrative Agent. If any such Interest Election Request requests a Eurodollar Rate Borrowing but does not specify an Interest Period, then the Borrower shall be deemed to have selected an Interest Period of one month's duration.

(c) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each applicable Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

(d) If the Borrower fails to deliver a timely Interest Election Request with respect to a Eurodollar Rate Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, such Borrowing shall be converted at the end of such Interest Period to a Eurodollar Rate Borrowing with an Interest Period of one month. Notwithstanding anything to the contrary herein, if an Event of Default has occurred and is continuing and the Administrative Agent, at the request of the Required Lenders, so notifies the Borrower, then, so long as such Event of Default is continuing (i) no outstanding Borrowing may be converted to or continued as a Eurodollar Rate Borrowing and (ii) unless repaid, each Eurodollar Rate Borrowing shall be converted to an ABR Borrowing at the end of the then-current Interest Period applicable thereto.

Section 2.06 Automatic Termination and Reduction of Commitments. Unless previously terminated, (a) the Initial Term Commitments on the Closing Date shall automatically terminate upon the making of the Initial Term Loans on the Closing Date and (b) the Additional Term Loan Commitments of any Class shall automatically terminate upon the making of the Additional Term Loans of such Class and, if any such Additional Term Loan Commitment is not drawn on the date that such Additional Term Loan Commitment is required to be drawn pursuant to the applicable Refinancing Amendment or Incremental Facility Amendment, the undrawn amount thereof shall automatically terminate.

Section 2.07 Repayment of Loans; Evidence of Debt.

(a) (i) The Borrower hereby unconditionally promises to repay the outstanding principal amount of the Initial Term Loans to the Administrative Agent for the account of each Term Lender (A) commencing at the end of the first full Fiscal Quarter ended after the Closing Date, and payable on the last Business Day of such Fiscal Quarter and each Fiscal Quarter thereafter (prior to the Term Loan Maturity Date), in a quarterly amount equal to 1.25% of the original principal amount of the Initial Term Loans (each such date being referred to as a "Loan Installment Date"), as such payments may be (x) reduced from time to time as a result of the application of prepayments in accordance with Section 2.08 or repurchases in accordance with Section 9.05(g) or (y) increased as a result of any increase in the amount of such Initial Term Loans pursuant to Section 2.19(a)) and (B) on the Term Loan Maturity Date, in an amount equal to the remainder of the principal amount of the Initial Term Loans outstanding on such date, together in each case with accrued and unpaid interest on the principal amount to be paid to but excluding the date of such payment.

(ii) The Borrower shall repay the Additional Term Loans of any Class in such scheduled amortization installments and on such date or dates as shall be specified therefor in the applicable Refinancing Amendment, Incremental Facility Agreement or Extension Amendment (as such payments may be reduced from time to time as a result of the application of prepayments in accordance with Section 2.08 or repurchases in accordance with Section 9.05(g)).

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Class and Type thereof and the Interest Period (if any) applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to paragraph (b) or (c) of this Section shall be *prima facie* evidence of the existence and amounts of the obligations recorded therein (absent manifest error); provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any manifest error therein shall not in any manner affect the obligation of the Borrower to repay the Loans in accordance with the terms of this Agreement; provided, further, that in the event of any inconsistency between the accounts maintained by the Administrative Agent pursuant to paragraph (d) of this Section and any Lender's records, the accounts of the Administrative Agent shall govern.

(e) Any Lender may request that any Loan made by it be evidenced by a Promissory Note. In such event, the Borrower shall prepare, execute and deliver a Promissory Note payable to such Lender and its registered assigns; it being understood and agreed that such Lender (and/or its applicable assign) shall be required to return such Promissory Note to the Borrower in accordance with Section 9.05(b)(iii) and upon the occurrence of the Termination Date (or as promptly thereafter as practicable). If any Lender loses the original copy of its Promissory Note, it shall execute an affidavit of loss containing an indemnification provision reasonably satisfactory to the Borrower.

Section 2.08 Prepayment of Loans.

(a) Optional Prepayments.

(i) Upon prior notice in accordance with paragraph (a)(ii) of this Section, the Borrower shall have the right at any time and from time to time to prepay any Borrowing of Loans of any Class in whole or in part without premium or penalty (but subject (A) in the case of Borrowings of Initial Term Loans only, to Section 2.09(d) and (B) if applicable, to Section 2.13). Each such prepayment shall be paid to the Lenders in accordance with their respective Applicable Percentages of the relevant Class.

(ii) The Borrower shall notify the Administrative Agent by telephone (promptly confirmed in writing) of any prepayment under this Section 2.08(a) (i) in the case of any prepayment of a Eurodollar Rate Borrowing, not later than 1:00 p.m. three Business Days before the date of prepayment or (ii) in the case of any prepayment of an ABR Borrowing, not later than 11:00 a.m. one Business Day before the date of prepayment (or, in the case of clauses (i) and (ii), such later time as to which the Administrative Agent may agree). Each such notice shall be irrevocable (except as set forth in the proviso to this sentence) and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; provided that any notice of prepayment delivered by the Borrower may state that such notice is conditioned upon the effectiveness of other transactions, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Promptly following receipt of any such notice relating to any Borrowing, the Administrative Agent shall advise the applicable Lenders of the contents thereof. Each partial prepayment of any Borrowing shall be in an amount at least equal to the amount that would be permitted in the case of a Borrowing of the same Type and Class as provided in Section 2.02(c) or such lesser amount that is then outstanding with respect to such Borrowing being repaid (and in increments of $100,000 in excess thereof or such lesser incremental amount that is then outstanding with respect to such Borrowing being repaid). Each prepayment of Term Loans shall be applied to the Class of Term Loans specified in the applicable prepayment notice, and each prepayment of Term Loans of such Class made pursuant to this Section 2.08(a) shall be applied against the remaining scheduled installments of principal due in respect of the Term Loans of such Class in the manner specified by the Borrower or, in the absence of any such specification on or prior to the date of such optional prepayment, in direct order of maturity.

(b) Mandatory Prepayments.

(i) No later than the fifth Business Day after the date on which the financial statements with respect to each Fiscal Year of Holdings are required to be delivered pursuant to Section 5.01(b), commencing with the Fiscal Year ending on or about October 31, 2019, the Borrower shall prepay the outstanding principal amount of Term Loans (and each such prepayment of Term Loans shall be applied to the Class of Term Loans specified in any applicable prepayment notice, and each such prepayment of Term Loans of such Class made pursuant to this Section 2.08(b)(i) shall be applied against the remaining scheduled installments of principal due in respect of the Term Loans of such Class in the manner specified by the Borrower (or, in the absence of any such specification on or prior to the date of such optional prepayment, in the direct order of maturity), and each such prepayment shall be paid to the Term Lenders in accordance with their respective Applicable Percentage of the applicable Class) in an aggregate principal amount equal to:

(A) the Required Excess Cash Flow Percentage of Excess Cash Flow of the Borrower and its Restricted Subsidiaries for the Excess Cash Flow Period then ended, minus

(B) at the option of the Borrower, without duplication of any amount deducted in calculating Excess Cash Flow for such Excess Cash Flow Period and excluding any such payment that reduced the amount required to be prepaid pursuant to this Section 2.08(b)(i) in the prior Excess Cash Flow Period, the aggregate principal amount of,

(1) (x) (A) any Initial Term Loans prepaid pursuant to Section 2.08(a) and (B) any Additional Term Loans, Replacement Term Loans, Incremental Equivalent Debt or Indebtedness incurred pursuant to Section 6.01(q) voluntarily prepaid, in each case that ranks pari passu in right of payment and security with the Initial Term Loans and (y) any loans prepaid or repaid under the ABL Facility (to the extent accompanied by a permanent reduction of the corresponding commitment thereunder) (in the case of clauses (x) and (y), to the extent that such prepayments were not financed with the proceeds of other Indebtedness of the Borrower or its Restricted Subsidiaries) prior to such date, and

(2) except to the extent deducted in the calculation of Excess Cash Flow, the amount of any reduction in the outstanding amount of (x) any Initial Term Loans and (y) Additional Term Loans, Replacement Term Loans, Incremental Equivalent Debt or Indebtedness incurred pursuant to Section 6.01(q), in each case that ranks pari passu in right of payment and security with the Initial Term Loans, resulting from any assignment made in accordance with Section 9.05(g) of this Agreement (including in connection with any Dutch Auction or open market purchase) or a contribution to the Borrower or its subsidiaries made in accordance with Section 9.05(g)(ii) or Section 9.05(h)(ii) of this Agreement prior to such date, in each case, in an amount equal to the actual amount of cash paid in connection with the relevant assignment;

in each case to the extent made during such fiscal year or after year-end and prior to any Excess Cash Flow prepayment date; provided that, an Excess Cash Flow prepayment shall be required pursuant to this Section 2.08(b)(i) only if the amount of the prepayment exceeds $7,500,000 and, in such case, the amount of the prepayment required pursuant to this Section 2.08(b)(i) shall equal the amount of such prepayment is in excess of $7,500,000.

(ii) No later than the fifth Business Day following the receipt of Net Proceeds in respect of any Prepayment Asset Sale or Net Insurance/Condemnation Proceeds, in each case, in excess of, at the time such Net Proceeds or Net Insurance/Condemnation are received, $5,000,000 in any Fiscal Year, the Borrower shall apply an amount equal to 100% of the Net Proceeds or Net Insurance/Condemnation Proceeds received with respect thereto in excess of such thresholds (the "Subject Proceeds") to prepay the outstanding principal amount of Initial Term Loans and Additional Term Loans then subject to ratable prepayment requirements (the "Subject Loans") in accordance with Section 2.08(b)(vi) below; provided that (A) if prior to the date any such prepayment is required to be made, no Event of Default then exists, the Borrower shall not be required to make a mandatory prepayment under this clause (ii) in respect of the Subject Proceeds to the extent (x) the Subject Proceeds are so reinvested within 12 months following receipt thereof, or (y) the Borrower or any of its subsidiaries has committed to so reinvest the Subject Proceeds during such 12-month period and the Subject Proceeds are so reinvested within six months after the expiration of such 12-month period; it being understood that if the Subject Proceeds have not been so reinvested prior to the expiration of the applicable period, the Borrower shall promptly prepay the Subject Loans with the amount of the Subject Proceeds not so reinvested as set forth above (without regard to the immediately preceding proviso); (B) each such prepayment of Term Loans shall be applied to the Class of Term Loans specified in any applicable prepayment notice, and each such prepayment of Term Loans of such Class made pursuant to this Section 2.08(b)(ii) shall be applied against the remaining scheduled installments of principal due in respect of the Term Loans of such Class in the manner specified by the Borrower (or, in the absence of any such specification on or prior to the date of such optional prepayment, in the direct order of maturity), and each such prepayment shall be paid to the Term Lenders in accordance with their respective Applicable Percentage of the applicable Class); and (C) if, at the time that any such prepayment would be required hereunder, the Borrower or any of its Restricted Subsidiaries is required to repay or repurchase any other Indebtedness (or offer to repay or repurchase any Indebtedness) that is secured on a pari passu basis with any Secured Obligation pursuant to the terms of the documentation governing such Indebtedness with the Subject Proceeds (such Indebtedness required to be so repaid or repurchased (or offered to be repaid or repurchased), the "Other Applicable Indebtedness"), then the relevant Person may apply the Subject Proceeds on a *pro rata* basis to the prepayment of the Subject Loans and to the repurchase or repayment of the Other Applicable Indebtedness (determined on the basis of the aggregate outstanding principal amount of the Subject Loans and the Other Applicable Indebtedness (or accreted amount if such Other Applicable Indebtedness is issued with original issue discount) at such time); it being understood that (1) the portion of the Subject Proceeds allocated to the Other Applicable Indebtedness shall not exceed the amount of the Subject Proceeds required to be allocated to the Other Applicable Indebtedness pursuant to the terms thereof (and the remaining amount, if any, of the Subject Proceeds shall be allocated to the Subject Loans in accordance with the terms hereof), and the amount of the prepayment of the Subject Loans that would have otherwise been required pursuant to this Section 2.08(b)(ii) shall be reduced accordingly and (2) to the extent the holders of the Other Applicable Indebtedness decline to have such Indebtedness prepaid or repurchased, the declined amount shall promptly (and in any event within ten Business Days after the date of such rejection) be applied to prepay the Subject Loans in accordance with the terms hereof.

(iii) In the event that the Borrower or any of its Restricted Subsidiaries receives Net Proceeds from the issuance or incurrence of Indebtedness by the Borrower or any of its Restricted Subsidiaries (other than Indebtedness that is permitted under Section 6.01, except to the extent the relevant Indebtedness constitutes (A) Refinancing Indebtedness incurred to refinance all or a portion of the Term Loans pursuant to Section 6.01(m) or Replacement Term Loans incurred to refinance Term Loans or Additional Term Loans in accordance with the requirements of Section 9.02(c), (B) Incremental Loans incurred to refinance all or a portion of the Term Loans pursuant to Section 2.19 and/or (C) Incremental Equivalent Debt incurred to finance all or a portion of the Loans in accordance with the requirements of Section 6.01(s)) the Borrower shall, substantially simultaneously with (and in any event not later than the next succeeding Business Day) the receipt of such Net Proceeds by the Borrower or its applicable Restricted Subsidiary, apply an amount equal to 100% of such Net Proceeds to prepay the outstanding principal amount of the relevant Term Loans in accordance with Section 2.08(b)(vi) below.

(iv) Notwithstanding any provision under this Section 2.08(b) to the contrary:

(A) the Borrower shall not be required to prepay any amount that would otherwise be required to be paid pursuant to Sections 2.08(b)(i) or (ii) above to the extent that the relevant Excess Cash Flow is generated by any Foreign Subsidiary, the relevant Prepayment Asset Sale is consummated by any Foreign Subsidiary or the relevant Net Insurance/Condemnation Proceeds are received by any Foreign Subsidiary, as the case may be, for so long as the repatriation to the Borrower of any such amount would be prohibited under any Requirement of Law or conflict with the fiduciary duties of such Foreign Subsidiary's directors, or result in, or could reasonably be expected to result in, a material risk of personal or criminal liability for any officer, director, employee, manager, member of management or consultant of such Foreign Subsidiary (the Borrower hereby agreeing to cause the applicable Foreign Subsidiary to promptly take all commercially reasonable actions required by applicable Requirements of Law to permit such repatriation); it being understood that if the repatriation of the relevant affected Subject Proceeds or Excess Cash Flow, as the case may be, is permitted under the applicable Requirement of Law and, to the extent applicable, would no longer conflict with the fiduciary duties of such director, or result in, or be reasonably expected to result in, a material risk of personal or criminal liability for such Persons described above, the Borrower shall be required to mandatorily prepay the Term Loans (net of additional Taxes payable or reserved against as a result thereof) pursuant to this Section 2.08(b) to the extent required herein (without regard to this clause (iv)); and

(B) if the Borrower determines in good faith that the repatriation to the Borrower as a distribution or dividend of any amounts required to mandatorily prepay the Term Loans pursuant to Sections 2.08(b)(i) or (ii) above that are attributable to Foreign Subsidiaries would result in an adverse Tax liability that is not de minimis (including any withholding Tax) (such amount, a "Restricted Amount"), as reasonably determined by the Borrower, the amount that the Borrower shall be required to mandatorily prepay pursuant to Sections 2.08(b)(i) or (ii) above, as applicable, shall be reduced by the Restricted Amount until such time as it may repatriate to the Borrower the Restricted Amount without incurring such adverse Tax liability that is not de minimis; provided that to the extent that the repatriation of any Subject Proceeds or Excess Cash Flow, as the case may be, from the relevant Foreign Subsidiary would no longer have an adverse Tax consequence that is not de minimis, an amount equal to the Subject Proceeds or Excess Cash Flow, as applicable and to the extent available, not previously applied pursuant to this clause (B), shall be promptly applied to the repayment of the Term Loans pursuant to Section 2.08(b) as otherwise required above (without regard to this clause (iv)). Notwithstanding anything to the contrary in the foregoing, in each case, any such prepayment shall no longer be required to be made with respect to any such amounts that, after the Borrower's use of commercially reasonable efforts, have not been repatriated prior to the date that is one year after the date the original prepayment was required to be made.

(v) Any Term Lender may elect, by notice to the Administrative Agent at or prior to the time and in the manner specified by the Administrative Agent, prior to any prepayment of Term Loans required to be made by the Term Borrower pursuant to this Section 2.08(b), to decline all (but not a portion) of its Applicable Percentage of such prepayment (such declined amounts, the "Declined Proceeds"), in which case such Declined Proceeds may be retained by the Borrower; provided that for the avoidance of doubt, no Lender may reject any prepayment made under Section 2.08(b)(iii) above to the extent that such prepayment is made with the Net Proceeds of (w) Refinancing Indebtedness incurred to refinance all or a portion of the Term Loans pursuant to Section 6.01(m), (x) Incremental Loans incurred to refinance all or a portion of the Term Loans pursuant to Section 2.19, (y) Replacement Term Loans incurred to refinance all or any portion of the Term Loans in accordance with the requirements of Section 9.02(c) and/or (z) Incremental Equivalent Debt incurred to refinance all or a portion of the Loans in accordance with the requirements of Section 6.01(s). If any Term Lender fails to deliver a notice to the Administrative Agent of its election to decline receipt of its Applicable Percentage of any mandatory prepayment within the time frame specified by the Administrative Agent, such failure will be deemed to constitute an acceptance of such Term Lender's Applicable Percentage of the total amount of such mandatory prepayment of Term Loans.

(vi) Except to the extent less than pro rata treatment with the Initial Term Loans is provided for in any Refinancing Amendment, any Incremental Facility Amendment or any Extension Amendment, each prepayment of Term Loans pursuant to Section 2.08(b) shall be applied ratably to each Class of Term Loans then outstanding (provided that any prepayment of Term Loans with the Net Proceeds of any Refinancing Indebtedness, Incremental Term Facility or Replacement Term Loans shall be applied to the applicable Class of Term Loans being refinanced or replaced). With respect to each Class of Term Loans, in connection with any mandatory prepayments by the Borrower of the Initial Term Loans pursuant to Section 2.08(b), such prepayments shall be applied on a pro rata basis to the then outstanding Term Loans being prepaid irrespective of whether such outstanding Term Loans are Base Rate Loans or Eurodollar Rate Loans; provided, that, if no Lenders exercise the right to waive a given mandatory prepayment of the Term Loans pursuant to Section 2.08(b)(v), then, with respect to such mandatory prepayment, the amount of such mandatory prepayment shall be applied first to Term Loans that are Base Rate Loans to the full extent thereof before application to Term Loans that are Eurodollar Rate Loans in a manner that minimizes the amount of any payments required to be made by the Borrower pursuant to Section 2.13.

(vii) Prepayments made under Section 2.08(b) shall be (A) accompanied by accrued interest as required by Section 2.10, (B) subject to Section 2.13 and (C) in the case of prepayments of Initial Term Loans under Section 2.08(b)(iii)(A) above as part of a Repricing Transaction, subject to Section 2.09(d), but shall otherwise be without premium or penalty.

Section 2.09 Fees.

(a) [Reserved].

(b) The Borrower agrees to pay to the Administrative Agent, for its own account, the annual administration fee described in the Fee Letter.

(c) All fees payable hereunder shall be paid on the dates due, in Dollars and in immediately available funds, to the Administrative Agent. Fees paid shall not be refundable under any circumstances except as otherwise provided in the Fee Letter.

(d) If, on or prior to the date that is one year from the Closing Date, a Repricing Transaction occurs, the Borrower will pay to the Administrative Agent for the ratable account of each Lender with outstanding Initial Term Loans which are repaid or prepaid pursuant to such Repricing Transaction, a premium in an amount equal to 1.0% of the principal amount of the Initial Term Loans prepaid or, in the case of any amendment, the principal amount of the Initial Term Loans outstanding prior to such amendment (including each Lender that withholds its consent to such Repricing Transaction and is replaced or repaid as a Non-Consenting Lender under Section 2.16(b)), a fee in an amount equal to 1.0% of (x) in the case of a Repricing Transaction of the type described in clause (a) of the definition thereof, the aggregate principal amount of all Initial Term Loans prepaid (or converted) in connection with such Repricing Transaction and (y) in the case of a Repricing Transaction described in clause (b) of the definition thereof, the aggregate principal amount of all Initial Term Loans outstanding on such date pursuant to such Repricing Transaction.

(e) Unless otherwise indicated herein, all computations of fees shall be made on the basis of a 360-day year and shall be payable for the actual days elapsed (including the first day but excluding the last day). Each determination by the Administrative Agent of a fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

Section 2.10 Interest.

(a) The Term Loans comprising each ABR Borrowing shall bear interest at the Alternate Base Rate plus the Applicable Rate.

(b) The Term Loans comprising each Eurodollar Rate Borrowing shall bear interest at the Adjusted Eurodollar Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(c) Notwithstanding the foregoing, if any principal of or interest on any Term Loan or any fee payable by the Borrower hereunder is not, in each case, paid or reimbursed when due, whether at stated maturity, upon acceleration or otherwise, the relevant overdue amount shall bear interest, to the fullest extent permitted by applicable Requirements of Law, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal or interest of any Term Loan, 2.00% plus the rate otherwise applicable to such Term Loan as provided in the preceding paragraphs of this Section or (ii) in the case of any fees, 2.00% plus the rate applicable to Term Loans that are ABR Loans as provided in paragraph (a) of this Section.

(d) Accrued interest on each Term Loan shall be payable in arrears on each Interest Payment Date for such Term Loan and on the Maturity Date applicable to such Loan; provided that (A) interest accrued pursuant to paragraph (c) of this Section shall be payable on demand, (B) in the event of any repayment or prepayment of any Term Loan, accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (C) in the event of any conversion of any Eurodollar Rate Loan prior to the end of the current Interest Period therefor, accrued interest on such Term Loan shall be payable on the effective date of such conversion.

(e) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the Alternate Base Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate or Adjusted Eurodollar Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error. Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid; provided that any Loan that is repaid on the same day on which it is made shall bear interest for one day.

Section 2.11 Alternate Rate of Interest.

(a) If prior to the commencement of any Interest Period for a Eurodollar Rate Borrowing:

(i) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted Eurodollar Rate for such Interest Period; or

(ii) the Administrative Agent is advised by the Required Lenders that the Adjusted Eurodollar Rate for such Interest Period will not adequately and fairly reflect the cost to such Lenders of making or maintaining their Loans included in such Borrowing for such Interest Period;

then the Administrative Agent shall promptly give notice thereof to the Borrower and the Lenders by telephone or facsimile as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, which the Administrative Agent agrees promptly to do, (i) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurodollar Rate Borrowing shall be ineffective and such Borrowing shall be converted to an ABR Borrowing on the last day of the Interest Period applicable thereto, and (ii) if any Borrowing Request requests a Eurodollar Rate Borrowing, such Borrowing shall be made as an ABR Borrowing.

(b) If at any time the Administrative Agent or the Borrower determine or the Required Lenders notify the Administrative Agent (with a copy to the Borrower) that the Required Lenders have determined (which determination shall be conclusive absent manifest error) that (i) adequate and reasonable means do not exist for ascertaining the Adjusted Eurodollar Rate for any requested Interest Period, including, without limitation, because the Eurodollar Rate is not available or published on a current basis and such circumstances are unlikely to be temporary; or (ii) the administrator of the Eurodollar Rate or a Governmental Authority having jurisdiction over the Administrative Agent has made a public statement identifying a specific date after which the Eurodollar Rate shall no longer be made available, or used for determining the interest rate of loans (such specific date, the "Scheduled Unavailability Date"), then the Administrative Agent and the Borrower shall endeavor to establish an alternate rate of interest to the Adjusted Eurodollar Rate, and shall enter into an amendment to this Agreement to reflect such alternate rate of interest and such other related changes to this Agreement as may be applicable; provided that, if such alternate rate of interest shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement; provided, further, that (i) any such successor rate shall be applied by the Administrative Agent in a manner consistent with market practice and (ii) to the extent such market practice is not administratively feasible for the Administrative Agent, such successor rate shall be applied in a manner as otherwise reasonably determined by the Administrative Agent and the Borrower. Notwithstanding anything to the contrary in Section 9.02, such amendment shall become effective without any further action or consent of any other party to this Agreement so long as the Administrative Agent shall not have received, within five (5) Business Days of the date notice of such alternate rate of interest is provided to the Lenders, written notice from the Required Lenders stating that such Required Lenders object to such amendment. If no such alternate rate has been determined and the circumstances under clause (i) above exist or the Scheduled Unavailability Date has occurred (as applicable), the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Adjusted Eurodollar Rate Loans shall be suspended, (to the extent of the affected Adjusted Eurodollar Rate Loans or Interest Periods), and (y) the Adjusted Eurodollar Rate component shall no longer be utilized in determining ABR. Upon receipt of such notice, the Borrower may revoke any pending request for a Loan of, conversion to or continuation of Adjusted Eurodollar Rate Loans (to the extent of the affected Adjusted Eurodollar Rate Loans or Interest Periods) or, failing that, will be deemed to have converted such request into a request for a Borrowing of ABR Loans (subject to the foregoing clause (y)) in the amount specified therein.

Section 2.12 Increased Costs.

(a) If any Change in Law:

(i) imposes, modifies or deems applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Adjusted Eurodollar Rate);

(ii) subjects any Lender or the Administrative Agent to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (c) through (e) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) imposes on any Lender or the London interbank market any other condition (other than Taxes) affecting this Agreement or Eurodollar Rate Loans made by such Lender;

and the result of any of the foregoing is to increase the cost to the relevant Lender or the Administrative Agent of making or maintaining any Eurodollar Rate Loan (or of maintaining its obligation to make any such Loan) or to reduce the amount of any sum received or receivable by such Lender or the Administrative Agent hereunder (whether of principal, interest or otherwise) in respect of any Eurodollar Rate Loan in an amount deemed by such Lender or the Administrative Agent, as applicable, to be material, then, within 30 days after the Borrower's receipt of the certificate contemplated by paragraph (c) of this Section, the Borrower will pay to such Lender or the Administrative Agent, as applicable, for such additional costs incurred or reduction suffered; provided that the Borrower shall not be liable for such compensation if (w) the relevant Change in Law occurs on a date prior to the date such Lender becomes a party hereto, (x) such Lender invokes Section 2.17, (y) in the case of requests for reimbursement under clause (iii) above resulting from a market disruption, (A) the relevant circumstances are not generally affecting the banking market or (B) the applicable request has not been made by Lenders constituting Required Lenders or (z) such Lender is not generally charging such amounts to similarly situated borrowers under comparable syndicated credit facilities.

(b) If any Lender determines that any Change in Law regarding liquidity or capital requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement or the Loans made by such Lender to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy and liquidity), then within 30 days of receipt by the Borrower of the certificate contemplated by paragraph (c) of this Section, the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered; provided that the Borrower shall not be liable for such compensation if the relevant Change in Law occurs on a date prior to the date such Lender becomes a party hereto.

(c) Any Lender requesting compensation under this Section 2.12 shall be required to deliver a certificate to the Borrower that (i) sets forth the amount or amounts necessary to compensate such Lender or its holding company, as applicable, as specified in paragraph (a) or (b) of this Section and (ii) sets forth in reasonable detail the manner in which such amount or amounts was determined and (iii) certifies that such Lender is generally charging such amounts to similarly situated borrowers, which shall be conclusive absent manifest error.

(d) Failure or delay on the part of any Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's right to demand such compensation; provided, however, that the Borrower shall not be required to compensate a Lender pursuant to this Section for any increased costs or reductions incurred more than 180 days prior to the date that such Lender notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor; provided, further, that if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

Section 2.13 Break Funding Payments. In the event of (a) the conversion or prepayment of any principal of any Eurodollar Rate Loan other than on the last day of an Interest Period applicable thereto (whether voluntary, mandatory, automatic, by reason of acceleration or otherwise), (b) the failure to borrow, convert, continue or prepay any Eurodollar Rate Loan on the date or in the amount specified in any notice delivered pursuant hereto (other than any notice revoked as contemplated under Section 2.11(b) and other than any failure to borrow as a result of a failure to make a Loan by any Lender as required hereunder) or (c) the assignment of any Eurodollar Rate Loan of any Lender other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 2.16, then, in any such event, the Borrower shall compensate each Lender for the loss, cost and expense incurred by such Lender that is attributable to such event (other than loss of Applicable Rate). In the case of a Eurodollar Rate Loan, the loss, cost or expense of any Lender shall be the amount reasonably determined by such Lender to be the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such Loan had such event not occurred, at the Eurodollar Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest which would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for deposits in the applicable currency of a comparable amount and period from other banks in the Eurodollar market; it being understood that such loss, cost or expense shall in any case exclude any interest rate floor and all administrative, processing or similar fees. Any Lender requesting compensation under this Section 2.13 shall be required to deliver a certificate to the Borrower that (i) sets forth any amount or amounts that such Lender is entitled to receive pursuant to this Section, the basis therefor and, in reasonable detail, the manner in which such amount or amounts were determined and (ii) certifies that such Lender is generally charging the relevant amounts to similarly situated borrowers under comparable syndicated credit facilities, which certificate shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 30 days after receipt thereof.

Section 2.14 Taxes.

(a) Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made free and clear of and without deduction or withholding for any Taxes, except as required by applicable Requirements of Law. If any applicable Requirement of Law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then (i) if such Tax is an Indemnified Tax, the amount payable by the applicable Loan Party shall be increased as necessary so that after all required deductions or withholdings have been made (including deductions and withholdings of Indemnified Taxes applicable to additional sums payable under this Section 2.14) each Lender (or, in the case of payments made to the Administrative Agent for its own account, the Administrative Agent) receives an amount equal to the sum it would have received had no such deductions or withholdings been made, (ii) the applicable Withholding Agent shall make such deductions or withholdings and (iii) the applicable Withholding Agent shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable Requirements of Law.

(b) In addition, the Loan Parties shall pay to the relevant Governmental Authority in accordance with applicable Requirements of Law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(c) The Loan Parties shall, jointly and severally, indemnify the Administrative Agent and each Lender within 30 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 2.14) payable or paid by, or required to be withheld or deducted from a payment to, the Administrative Agent or such Lender, as applicable, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted. A certificate setting forth, in reasonable detail, the basis and calculation of the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(d) Each Lender shall severally indemnify the Administrative Agent, within 10 days after demand therefor, for (i) any Indemnified Taxes imposed on or with respect to any payment under any Loan Document that is attributable to such Lender (but only to the extent that no Loan Party has already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.05(c) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes that are attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to any Lender under any Loan Document or otherwise payable by the Administrative Agent to any Lender from any other source against any amount due to the Administrative Agent under this clause (d).

(e) As soon as practicable after any payment of Taxes by any Loan Party to a Governmental Authority as contemplated in this Section 2.14, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment that is reasonably satisfactory to the Administrative Agent.

(f) Status of Lenders.

(i) Any Lender that is entitled to an exemption from or reduction of any withholding Tax with respect to any payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation as the Borrower or the Administrative Agent may reasonably request to permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable Requirements of Law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 2.14(f)(ii)(A), (B) and (D) below) shall not be required if in the Lender's reasonable judgment such completion execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing,

(A) each Lender that is not a Foreign Lender shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of IRS Form W-9 (or any successor form) certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) each Foreign Lender shall deliver to the Borrower and the Administrative Agent (in such number as shall be requested by the recipient) on or about the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(1) (x) with respect to payments of interest under any Loan Document, in the case of any Foreign Lender claiming the benefits of an income tax treaty to which the U.S. is a party, executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E (or any successor form) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, in the case of any Foreign Lender claiming the benefits of an income tax treaty to which the U.S. is a party, IRS Form W-8BEN or IRS Form W-8BEN-E (or any successor form) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(2) executed copies of IRS Form W-8ECI or W-8EXP (or any successor form);

(3) in the case of any Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit K-1 to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code (a "U.S. Tax Compliance Certificate") and (y) executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E (or any successor form); or

(4) to the extent any Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY (or any successor form), accompanied by IRS Form W-8ECI or W-8EXP (or any successor form), IRS Form W-8BEN or IRS Form W-8BEN-E (or any successor form), a U.S. Tax Compliance Certificate substantially in the form of Exhibit K-2 or Exhibit K-3, IRS Form W-9 (or any successor form), and/or other certification documents from each beneficial owner, as applicable; provided that if such Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit K-4 on behalf of each such direct and indirect partner;

(C) each Foreign Lender shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or about the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of any other form prescribed by applicable Requirements of Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable Requirements of Law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by applicable Requirements of Law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation as is prescribed by applicable Requirements of Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for the purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so. Notwithstanding anything to the contrary in this Section 2.14(f), no Lender shall be required to provide any form or certification that such Lender is not legally entitled to deliver.

(g) [Reserved].

(h) If the Administrative Agent or any Lender determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified by any Loan Party or with respect to which such Loan Party has paid additional amounts pursuant to this Section 2.14, it shall pay over such refund to such Loan Party (but only to the extent of indemnity payments made by such Loan Party under this Section 2.14 with respect to the Indemnified Taxes giving rise to such refund), net of all out-of-pocket expenses of the Administrative Agent or such Lender (including any Taxes imposed with respect to such refund), and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that such Loan Party, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to such Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (h), in no event will the Administrative Agent or any Lender be required to pay any amount to any Loan Party pursuant to this paragraph (h) to the extent that the payment thereof would place the Administrative Agent or such Lender in a less favorable net after-Tax position than the position that the Administrative Agent or such Lender would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This Section 2.14 shall not be construed to require the Administrative Agent or any Lender to make available its Tax returns (or any other information relating to its Taxes which it deems confidential) to the relevant Loan Party or any other Person.

(i) For purposes of this Section 2.14, the term "Requirements of Law" includes FATCA.

(j) Survival. Each party's obligations under this Section 2.14 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, any Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

Section 2.15 Payments Generally; Allocation of Proceeds; Sharing of Payments.

(a) Unless otherwise specified, the Borrower shall make each payment required to be made by it hereunder (whether of principal, interest or fees or of amounts payable under Section 2.15, 2.16 or 2.17, or otherwise) prior to 3:00 p.m. on the date when due, in immediately available funds, without set-off (except as otherwise provided in Section 2.14) or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent to the applicable account designated by the Administrative Agent to the Borrower, except that payments pursuant to Sections 2.12, 2.13, 2.14 and 9.03 shall be made directly to the Person or Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. Except as provided in Sections 2.16(b) and 2.17, each Borrowing, each payment or prepayment of principal of any Borrowing, each payment of interest on the Loans of a given Class and each conversion of any Borrowing to or continuation of any Borrowing as a Borrowing of any Type (and of the same Class) shall be allocated pro rata among the Lenders in accordance with their respective Applicable Percentages of the applicable Class. Each Lender agrees that in computing such Lender's portion of any Borrowing to be made hereunder, the Administrative Agent may, in its discretion, round each Lender's percentage of such Borrowing to the next higher or lower whole Dollar amount. All payments hereunder shall be made in Dollars. Any payment required to be made by the Administrative Agent hereunder shall be deemed to have been made by the time required if the Administrative Agent shall, at or before such time, have taken the necessary steps to make such payment in accordance with the regulations or operating procedures of the clearing or settlement system used by the Administrative Agent to make such payment.

(b) Subject in all respects to the provisions of the Intercreditor Agreement, all proceeds of Collateral received by the Administrative Agent while an Event of Default exists and all or any portion of the Loans have been accelerated hereunder pursuant to Section 7.01, shall be applied, first, to the payment of all costs and expenses then due incurred by the Administrative Agent in connection with any collection, sale or realization on Collateral or otherwise in connection with this Agreement, any other Loan Document or any of the Secured Obligations, including all court costs and the fees and expenses of agents and legal counsel, the repayment of all advances made by the Administrative Agent hereunder or under any other Loan Document on behalf of any Loan Party and any other costs or expenses incurred in connection with the exercise of any right or remedy hereunder or under any other Loan Document, second, on a pro rata basis, to pay any fees, indemnities or expense reimbursements then due to the Administrative Agent (other than those covered in clause first above) from the Borrower constituting Secured Obligations, third, on a pro rata basis in accordance with the amounts of the Secured Obligations (other than contingent indemnification obligations for which no claim has yet been made) owed to the Secured Parties on the date of any such distribution, to the payment in full of the Secured Obligations; and fourth, to, or at the direction of, the Borrower or as a court of competent jurisdiction may otherwise direct.

(c) If any Lender obtains payment (whether voluntary, involuntary, through the exercise of any right of set-off or otherwise) in respect of any principal of or interest on any of its Loans of any Class held by it resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans of such Class and accrued interest thereon than the proportion received by any other Lender with Loans of such Class, then the Lender receiving such greater proportion shall purchase (for Cash at face value) participations in the Loans of such Class of other Lenders of such Class at such time outstanding to the extent necessary so that the benefit of all such payments shall be shared by the Lenders of such Class ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans of such Class; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not apply to (x) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or (y) any payment obtained by any Lender as consideration for the assignment of or sale of a participation in any of its Loans to any permitted assignee or participant, including any payment made or deemed made in connection with Sections 2.19, 2.20 and 9.02(c). The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable Requirements of Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section 2.15(c) and will, in each case, notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section 2.15(c) shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased.

(d) Unless the Administrative Agent has received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of any Lender hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the applicable Lender the amount due. In such event, if the Borrower has not in fact made such payment, then each Lender severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(e) If any Lender fails to make any payment required to be made by it pursuant to Section 2.04(b) or Section 2.15(d), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid.

Section 2.16 Mitigation Obligations; Replacement of Lenders.

(a) If any Lender requests compensation under Section 2.12 or such Lender determines it can no longer make or maintain Eurodollar Rate Loans pursuant to Section 2.17, or such Lender requires any Loan Party to pay any additional amount to or indemnify any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.14, then such Lender shall (at the request of the Borrower) use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder, or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the reasonable judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.12 or 2.14, as applicable, in the future or mitigate the impact of Section 2.17, as the case may be, and (ii) would not subject such Lender to any unreimbursed out-of-pocket cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If (i) any Lender requests compensation under Section 2.12 or such Lender determines it can no longer make or maintain Eurodollar Rate Loans pursuant to Section 2.17, (ii) any Lender requires any Loan Party to pay any additional amount to or indemnify any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.14 and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with Section 2.16(a), (iii) any Lender is a Defaulting Lender, (iv) a Lender fails to accept an Extension Offer made to such Lender or (v) in connection with any proposed amendment, waiver or consent requiring the consent of "each Lender" or "each Lender directly affected thereby" (or any other Class or group of Lenders other than the Required Lenders) with respect to which Required Lender (or the consent of Lenders holding loans or commitments of such Class or lesser group representing more than 50% of the sum of the total loans and unused commitments of such Class or lesser group at such time) has been obtained, as applicable, any Lender is a non-consenting Lender (each such Lender described in this clause (v), a "Non-Consenting Lender"), then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, (x) terminate the applicable Commitments of such Lender, and repay all Obligations of the Borrower owing to such Lender relating to the applicable Loans and participations held by such Lender as of such termination date or (y) replace such Lender by requiring such Lender to assign and delegate (and such Lender shall be obligated to assign and delegate), without recourse (in accordance with and subject to the restrictions contained in Section 9.05 but with the processing and recordation fee being waived by the Administrative Agent in such instance), all of its interests, rights (other than its existing rights to payments pursuant to Section 2.12 or Section 2.14) and obligations under this Agreement to an Eligible Assignee that shall assume such obligations (which Eligible Assignee may be another Lender, if any Lender accepts such assignment); provided that (A) such Lender has received payment of an amount equal to the outstanding principal amount of its Loans of such Class of Loans and/or Commitments, accrued interest thereon, accrued fees and all other amounts payable to it hereunder with respect to such Class of Loans and/or Commitments, (B) in the case of any assignment resulting from a claim for compensation under Section 2.12 or payments required to be made pursuant to Section 2.14, such assignment would result in a reduction in such compensation or payments and (C) such assignment does not conflict with applicable Requirements of Law. No Lender (other than a Defaulting Lender) shall be required to make any such assignment and delegation, and the Borrower may not repay the Obligations of such Lender or terminate its Commitments, if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply. Each Lender agrees that if it is replaced pursuant to this Section 2.16, it shall execute and deliver to the Administrative Agent an Assignment and Assumption to evidence such sale and purchase and shall deliver to the Administrative Agent any Promissory Note (if the assigning Lender's Loans are evidenced by one or more Promissory Notes) subject to such Assignment and Assumption (provided that the failure of any Lender replaced pursuant to this Section 2.16 to execute an Assignment and Assumption or deliver any such Promissory Note shall not render such sale and purchase (and the corresponding assignment) invalid), such assignment shall be recorded in the Register and any such Promissory Note shall be deemed cancelled. Each Lender hereby irrevocably appoints the Administrative Agent (such appointment being coupled with an interest) as such Lender's attorney-in-fact, with full authority in the place and stead of such Lender and in the name of such Lender, from time to time in the Administrative Agent's discretion, with prior written notice to such Lender, to take any action and to execute any such Assignment and Assumption or other instrument that the Administrative Agent may deem reasonably necessary to carry out the provisions of this clause (b). To the extent that any Lender is replaced pursuant to Section 2.16(b)(v) in connection with a Repricing Transaction requiring payment of a fee pursuant to Section 2.09(d), the Borrower shall pay to each Lender being replaced as a result of such Repricing Transaction the fee set forth in Section 2.09(d).

Section 2.17 Illegality. If any Lender reasonably determines that any Change in Law has made it unlawful, or that any Governmental Authority has asserted after the Closing Date that it is unlawful, for such Lender or its applicable lending office to make, maintain or fund Loans whose interest is determined by reference to Adjusted Eurodollar Rate, or to determine or charge interest rates based upon the Adjusted Eurodollar Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the applicable interbank market, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, (i) any obligation of such Lender to make or continue Eurodollar Rate Loans or to convert ABR Loans to Eurodollar Rate Loans shall be suspended and (ii) if such notice asserts the illegality of such Lender making or maintaining ABR Loans the interest rate on which is determined by reference to the Eurodollar Rate component of the Alternate Base Rate, the interest rate on which ABR Loans of such Lender, shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurodollar Rate component of the Alternate Base Rate, in each case until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist (which notice such Lender agrees to give promptly). Upon receipt of such notice, (x) the Borrower shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, convert all of such Lender's Eurodollar Rate Loans to ABR Loans (the interest rate on which ABR Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurodollar Rate component of the Alternate Base Rate) either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurodollar Rate Loans (in which case the Borrower shall not be required to make payments pursuant to Section 2.13 in connection with such payment) and (y) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Eurodollar Rate, the Administrative Agent shall during the period of such suspension compute the Alternate Base Rate applicable to such Lender without reference to the Eurodollar Rate component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Eurodollar Rate. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted. Each Lender agrees to designate a different lending office if such designation will avoid the need for such notice and will not, in the determination of such Lender, otherwise be materially disadvantageous to such Lender.

Section 2.18 Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then for so long as such Lender is a Defaulting Lender, the Loans and the Commitments of such Defaulting Lender shall not be included in determining whether all Lenders, each affected Lender, the Required Lenders or such other number of Lenders as may be required hereby or under any other Loan Document have taken or may take any action hereunder (including any consent to any waiver, amendment or modification pursuant to Section 9.02); provided that any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender which affects such Defaulting Lender disproportionately and adversely relative to other affected Lenders shall require the consent of such Defaulting Lender.

Section 2.19 Incremental Credit Extensions.

(a) The Borrower may, at any time, on one or more occasions pursuant to an Incremental Facility Amendment add one or more new tranches of term facilities and/or increase the principal amount of the Term Loans of any existing Class by requesting new commitments to provide such Term Loans (any such new tranche or increase, an "Incremental Term Facility" and any loans made pursuant to an Incremental Term Facility, "Incremental Term Loans") in an aggregate outstanding principal amount not to exceed the Incremental Cap; provided that:

(i) no Incremental Commitment in respect of any Incremental Term Facility may be in an amount that is less than $5,000,000 (or such lesser amount to which the Administrative Agent may reasonably agree),

(ii) except as the Borrower and any Lender may separately agree, no Lender shall be obligated to provide any Incremental Commitment, and the determination to provide such commitments shall be within the sole and absolute discretion of such Lender,

(iii) no Incremental Facility or Incremental Loan (nor the creation, provision or implementation thereof) shall require the approval of any existing Lender other than in its capacity, if any, as a lender providing all or part of any Incremental Commitment or Incremental Loan,

(iv) except as otherwise provided in this Section 2.19, the terms of any Incremental Term Facility shall be substantially similar to, or (taken as a whole) no more favorable (as reasonably determined by the Borrower) to the Lenders providing such Incremental Term Facility than, those applicable to the Initial Term Loans (except to the extent such terms are (i) conformed or added hereto for the benefit of the Lenders providing the Initial Term Loans pursuant to an amendment hereto subject solely to the reasonable satisfaction of the Administrative Agent, (ii) applicable solely to periods after the Term Loan Maturity Date existing at the time of such incurrence or issuance or (iii) otherwise acceptable to the Administrative Agent),

(v) the Effective Yield (and the components thereof) applicable to any Incremental Facility may be determined by the Borrower and the lender or lenders providing such Incremental Facility; provided that, in the case of any Incremental Term Facility that is pari passu with the Initial Term Loans in right of payment and with respect to security, the Effective Yield applicable thereto may not be more than 0.50% higher than the Effective Yield applicable to the Initial Term Loans unless the Applicable Rate with respect to the Initial Term Loans is adjusted to be equal to the Effective Yield with respect to such Incremental Facility, minus, 0.50%,

(vi) the final maturity date with respect to any Incremental Term Loans shall be no earlier than the Latest Term Loan Maturity Date at the time of incurrence thereof,

(vii) the Weighted Average Life to Maturity of any Incremental Term Facility shall be no shorter than the remaining Weighted Average Life to Maturity of any then-existing tranche of Term Loans (without giving effect to any prepayments thereof),

(viii) (A) any Incremental Term Facility may rank pari passu with or junior to any then-existing tranche of Term Loans, as applicable, in right of payment and/or security or may be unsecured (and to the extent the relevant Incremental Facility is pari passu with or subordinated to any then-existing tranche of Term Loans in right of payment or security and documented in a separate agreement, it shall be subject to an Acceptable Intercreditor Agreement) and (B) no Incremental Facility may be (x) guaranteed by any Person which is not a Loan Party or (y) secured by any assets other than the Collateral,

(ix) any Incremental Term Facility may not participate on a greater than pro rata basis in any mandatory prepayment in respect of the Initial Term Loans (and any Additional Term Loans then subject to ratable repayment requirements),

(x) subject to Section 2.19(f), no Event of Default shall exist immediately prior to or after giving effect to the effectiveness of such Incremental Facility,

(xi) the proceeds of any Incremental Facility may be used for working capital and other general corporate purposes (including acquisitions, Investments and Restricted Payments) and any other use not prohibited by this Agreement, and

(xii) on the date of the Borrowing of any Incremental Term Loans that will be of the same Class as any then-existing Class of Term Loans, and notwithstanding anything to the contrary set forth in Sections 2.05 or 2.10 above, such Incremental Term Loans shall be added to (and constitute a part of, be of the same Type as and, at the election of the Borrower, have the same Interest Period as) each Borrowing of outstanding Term Loans of such Class on a pro rata basis (based on the relative sizes of such Borrowings), so that each Term Lender providing such Incremental Term Loans will participate proportionately in each then-outstanding Borrowing of Term Loans of such Class; it being acknowledged that the application of this clause (a)(xii) may result in new Incremental Term Loans having Interest Periods (the duration of which may be less than one month) that begin during an Interest Period then applicable to outstanding Eurodollar Rate Loans of the relevant Class and which end on the last day of such Interest Period.

(b) Incremental Commitments may be provided by any existing Lender (in its sole discretion), or by any other Eligible Assignee (any such other lender being called an "Additional Lender"); provided that the Administrative Agent shall have consented (such consent not to be unreasonably withheld) to the relevant Additional Lender's provision of Incremental Commitments if such consent would be required under Section 9.05(b) for an assignment of Loans to such Additional Lender; provided, further, that any Additional Lender that is an Affiliated Lender shall be subject to the provisions of Section 9.05(g), *mutatis mutandis*, to the same extent as if the relevant Incremental Commitments and related Obligations had been acquired by such Lender by way of assignment.

(c) Each Lender or Additional Lender providing a portion of any Incremental Commitment shall execute and deliver to the Administrative Agent and the Borrower all such documentation (including the relevant Incremental Facility Amendment) as may be reasonably required by the Administrative Agent to evidence and effectuate such Incremental Commitment. On the effective date of such Incremental Commitment, each Additional Lender shall become a Lender for all purposes in connection with this Agreement.

(d) As conditions precedent to the effectiveness of any Incremental Facility or the making of any Incremental Loans, (i) upon its request, the Administrative Agent shall have received customary written opinions of counsel, as well as such reaffirmation agreements, supplements and/or amendments as it shall reasonably require, (ii) the Administrative Agent shall have received, from each Additional Lender, an administrative questionnaire, in the form provided to such Additional Lender by the Administrative Agent (the " Administrative Questionnaire") and such other documents as it shall reasonably require from such Additional Lender, (iii) the Administrative Agent and Lenders shall have received all fees required to be paid in respect of such Incremental Facility or Incremental Loans, (iv) subject to Section 2.19(f), the Administrative Agent shall have received a Borrowing Request as if the relevant Incremental Loans were subject to Section 2.03 or another written request, the form of which is reasonably acceptable to the Administrative Agent and (v) the Administrative Agent shall have received a certificate of the Borrower signed by a Responsible Officer thereof:

(A) certifying and attaching a copy of the resolutions adopted by the governing body of the Borrower approving or consenting to such Incremental Facility or Incremental Loans, and

(B) to the extent applicable, certifying that the condition set forth in clause (a)(x) above has been satisfied.

(e) The Lenders hereby irrevocably authorize the Administrative Agent to enter into any Incremental Facility Amendment and/or any amendment to any other Loan Document as may be necessary in order to establish new Classes or sub-Classes in respect of Loans or Commitments pursuant to this Section 2.19 and such technical amendments as may be necessary or appropriate in the reasonable opinion of the Administrative Agent and the Borrower in connection with the establishment of such new Classes or sub-Classes, in each case on terms consistent with this Section 2.19.

(f) Notwithstanding anything to the contrary in this Section 2.19 or any other provision of any Loan Document, if the proceeds of any Incremental Term Facility will be used to consummate a Limited Conditionality Acquisition and the Borrower has made an LCA Election with respect to such Limited Conditionality Acquisition, the condition that, at the time of the effectiveness of any Incremental Term Facility (and after giving effect thereto), no Event of Default shall exist, may be tested and satisfied as of the LCA Test Date; *provided,* that, (x) upon the effectiveness of any Incremental Term Facility, no Event of Default under Section 7.01(a), 7.01(f) (solely with respect to the Borrower) or 7.01(g) (solely with respect to the Borrower) shall exist and (y) the availability of such Incremental Term Facility shall nevertheless be subject to customary "specified" and "acquisition agreement" representations (as reasonably agreed between the Borrower and the lenders providing such Incremental Term Facility).

(g) This Section 2.19 shall supersede any provision in Section 2.15 or 9.02 to the contrary.

Section 2.20 Extensions of Loans.

(a) Notwithstanding anything to the contrary in this Agreement, pursuant to one or more offers (each, an "Extension Offer") made from time to time by the Borrower to all Lenders holding Loans or Commitments of any Class, in each case on a pro rata basis (based on the aggregate outstanding principal amount of the respective Loans of such Class) and on the same terms to each such Lender, the Borrower is hereby permitted to consummate transactions with any individual Lender who accepts the terms contained in the relevant Extension Offer to extend the Maturity Date of such Lender's Loans of such Class and otherwise modify the terms of such Loans pursuant to the terms of the relevant Extension Offer (including by increasing the interest rate or fees payable in respect of such Loans and/or Commitments (and related outstandings) and/or modifying the amortization schedule, if any, in respect of such Loans) (each, an "Extension", and each group of Loans or Commitments, as applicable, in each case as so extended, and the original Loans and the original Commitments (in each case not so extended), being a "tranche"); it being understood that any Extended Term Loans shall constitute a separate tranche of Loans from the tranche of Loans from which they were converted, so long as the following terms are satisfied:

(i) except as to (A) interest rates, fees, amortization, final maturity date, premiums, required prepayment dates and participation in prepayments (which shall, subject to immediately succeeding clauses (iii), (iv) and (v), be determined by the Borrower and any Lender who agrees to an Extension of its Term Loans and set forth in the relevant Extension Offer) and (B) any covenants or other provisions applicable only to periods after the Latest Maturity Date (in each case, as of the date of such Extension), the Term Loans of any Lender extended pursuant to any Extension (any such extended Term Loans, the "Extended Term Loans") shall have the same terms (or terms not less favorable to existing Lenders) as the tranche of Term Loans subject to the relevant Extension Offer; provided, however, that any representations and warranties, affirmative and negative covenants (including financial covenants) and events of default applicable to such tranche of Extended Term Loans that also expressly apply to (and for the benefit of) the tranche of Term Loans subject to the Extension Offer and each other Class of Term Loans hereunder may be more favorable to the lenders of the applicable tranche of Extended Term Loans than those originally applicable to the tranche of Term Loans subject to the Extension Offer;

(ii) the final Maturity Date of any Extended Term Loans may be no earlier than the then applicable Latest Maturity Date of the Class of Term Loans being extended at the time of Extension;

(iii) the Weighted Average Life to Maturity of any Extended Term Loans shall be no shorter than the remaining Weighted Average Life to Maturity of the Class of Term Loans being extended;

(iv) any Extended Term Loans may participate on a pro rata basis or a less than pro rata basis (but not a greater than pro rata basis with respect to any mandatory prepayment) in any mandatory repayments or prepayments (but, for purposes of clarity, not scheduled amortization payments) in respect of the Term Loans, in each case as specified in the relevant Extension Offer;

(v) if the aggregate principal amount of Loans in respect of which Lenders have accepted the relevant Extension Offer exceed the maximum aggregate principal amount of Loans offered to be extended by the Borrower pursuant to such Extension Offer, then the Loans of such Lenders shall be extended ratably up to such maximum amount based on the respective principal amounts (but not to exceed the applicable Lender's actual holdings of record) with respect to which such Lenders have accepted such Extension Offer;

(vi) unless the Administrative Agent otherwise agrees, any Extension must be in a minimum amount of $5,000,000;

(vii) any applicable Minimum Extension Condition must be satisfied or waived by the Borrower; and

(viii) any documentation in respect of any Extension shall be consistent with the foregoing.

(b) (i) No Extension consummated in reliance on this Section 2.20, shall constitute a voluntary or mandatory prepayment for purposes of Section 2.08, (ii) the scheduled amortization payments (insofar as such schedule affects payments due to Lenders participating in the relevant Class) set forth in Section 2.07 shall be adjusted to give effect to any Extension of any Class of Loans and (iii) except as set forth in clause (a)(vi) above, no Extension Offer is required to be in any minimum amount or any minimum increment; provided that the Borrower may, at its election, specify as a condition (a "Minimum Extension Condition") to the consummation of any Extension that a minimum amount (to be specified in the relevant Extension Offer in the Borrower's sole discretion) of Loans or Commitments (as applicable) of any or all applicable tranches be tendered; it being understood that the relevant Borrower may, in its sole discretion, waive any such Minimum Extension Condition. The Administrative Agent and the Lenders hereby consent to the transactions contemplated by this Section 2.20 (including, for the avoidance of doubt, the payment of any interest, fees or premium in respect of any Extended Term Loans on such terms as may be set forth in the relevant Extension Offer) and hereby waive the requirements of any provision of this Agreement (including Sections 2.07, 2.08 or 2.15) or any other Loan Document that may otherwise prohibit any Extension or any other transaction contemplated by this Section.

(c) No consent of any Lender or the Administrative Agent shall be required to effectuate any Extension, other than the consent of each Lender agreeing to such Extension with respect to one or more of its Loans of any Class (or a portion thereof). All Extended Term Loans and all obligations in respect thereof shall constitute Secured Obligations under this Agreement and the other Loan Documents that are secured by the Collateral and guaranteed on a pari passu basis with all other applicable Secured Obligations under this Agreement and the other Loan Documents. The Lenders hereby irrevocably authorize the Administrative Agent to enter into any Extension Amendment and any amendments to any of the other Loan Documents with the Loan Parties as may be necessary in order to establish new Classes or sub-Classes in respect of Loans or Commitments so extended and such technical amendments as may be necessary or appropriate in the reasonable opinion of the Administrative Agent and the Borrower in connection with the establishment of such new Classes or sub-Classes, in each case on terms consistent with this Section 2.20.

(d) In connection with any Extension, the Borrower shall provide the Administrative Agent at least five Business Days' (or such shorter period as may be agreed by the Administrative Agent) prior written notice thereof, and shall agree to such procedures (including regarding timing, rounding and other adjustments and to ensure reasonable administrative management of the credit facilities hereunder after such Extension), if any, as may be established by, or acceptable to, the Administrative Agent, in each case acting reasonably to accomplish the purposes of this Section 2.20.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES

On the Closing Date and on the other dates required pursuant to Article 4, Holdings and Intermediate Holdings (in each case solely with respect to Sections 3.01, 3.02, 3.03, 3.07, 3.08, 3.09, 3.13, 3.14, 3.15, 3.16 and 3.17) and the Borrower, represent and warrant to the Lenders that:

Section 3.01 Organization; Powers. Holdings, Intermediate Holdings, the Borrower and each of its Restricted Subsidiaries (a) is (i) duly organized and validly existing and (ii) in good standing (to the extent such concept exists in the relevant jurisdiction) under the Requirements of Law of its jurisdiction of organization, (b) has all requisite organizational power and authority to own its assets and to carry on its business as now conducted and (c) is qualified to do business in, and is in good standing (to the extent such concept exists in the relevant jurisdiction) in, every jurisdiction where the ownership, lease or operation of its properties or conduct of its business requires such qualification, except, in each case referred to in this Section 3.01 (other than clause (a)(i) with respect to the Borrower) where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

Section 3.02 Authorization; Enforceability. The execution, delivery and performance by each Loan Party of each Loan Document to which such Loan Party is a party are within such Loan Party's corporate or other organizational power and have been duly authorized by all necessary corporate or other organizational action of such Loan Party. Each Loan Document to which any Loan Party is a party has been duly executed and delivered by such Loan Party and is a legal, valid and binding obligation of such Loan Party, enforceable against such Loan Party in accordance with its terms, subject to the Legal Reservations.

Section 3.03 Governmental Approvals; No Conflicts. The execution and delivery of each Loan Document by each Loan Party party thereto and the performance by such Loan Party thereof (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except (i) such as have been obtained or made and are in full force and effect, (ii) in connection with the Perfection Requirements and (iii) such consents, approvals, registrations, filings, or other actions the failure to obtain or make which would not be reasonably expected to have a Material Adverse Effect, (b) will not violate any (i) of such Loan Party's Organizational Documents or (ii) Requirement of Law applicable to such Loan Party which violation, in the case of this clause (b)(ii), would reasonably be expected to have a Material Adverse Effect and (c) will not violate or result in a default under any Contractual Obligation to which such Loan Party is a party which violation, in the case of this clause (c), would reasonably be expected to result in a Material Adverse Effect.

Section 3.04 Financial Condition; No Material Adverse Effect.

(a) The financial statements of Target provided pursuant to Section 4.01(c)(i) present fairly, in all material respects, the financial position and results of operations and cash flows of Target and its subsidiaries on a consolidated basis as of such dates and for such periods in accordance with GAAP, subject, in the case of any such unaudited financial statements, to the absence of footnotes and normal year-end adjustments.

(b) Since the Closing Date, there have been no events, developments or circumstances that have had, or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 3.05 Properties.

(a) As of the Closing Date, Schedule 1.01(c) sets forth the address of each Real Estate Asset (or each set of such assets that collectively comprise one operating property) having a fair market value in excess of $5,000,000 that is owned in fee simple by any Loan Party.

(b) The Borrower and each of its Restricted Subsidiaries have good and valid fee simple title to or rights to purchase, or valid leasehold interests in, or easements or other limited property interests in, all of their respective Real Estate Assets and have good title to their personal property and assets, in each case, except (i) for defects in title that do not materially interfere with their ability to conduct their business as currently conducted or to utilize such properties and assets for their intended purposes or (ii) where the failure to have such title or rights would not reasonably be expected to have a Material Adverse Effect.

(c) The Borrower and its Restricted Subsidiaries solely and exclusively own or otherwise have a valid license or right to use all rights in any and all intellectual property or other similar proprietary rights throughout the world, including any and all Patents, Trademarks, Copyrights, domain names, design rights, proprietary rights, technology, software, trade secrets, know-how, database rights and all related documentation, registrations, additions, improvements or accessions, and all goodwill and rights to sue for past, present and future infringement associated with any of the foregoing (collectively, "IP Rights") that are used in, held for use in or otherwise necessary for their respective businesses as presently conducted without any infringement, dilution, misappropriation or other violation of the IP Rights of third parties, except to the extent the failure to own or have a license or have rights to use would not, or where such infringement, dilution, misappropriation or other violation would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. To the knowledge of the Borrower, neither the Borrower nor any of its Restricted Subsidiaries infringes upon, misuses, dilutes, misappropriates or otherwise violates any IP Rights held by any Person, except any such infringement, misuse, dilution, misappropriation or other violation would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. No claim or litigation regarding any IP Rights is pending or, to the knowledge of the Borrower, threatened in writing against Borrower or any Restricted Subsidiary, that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 3.06 Litigation and Environmental Matters.

(a) There are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of the Borrower, threatened in writing against or affecting the Borrower or any of its Restricted Subsidiaries which would reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

(b) Except for any matters that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect, (i) neither the Borrower nor any of its Restricted Subsidiaries is subject to or has received written notice of any Environmental Claim or knows of any basis for any Environmental Claim against the Borrower or its Restricted Subsidiaries and (ii) neither the Borrower nor any of its Restricted Subsidiaries (A) has failed to comply with any Environmental Law or to obtain, maintain or comply with any Governmental Authorization required under any Environmental Law or (B) is subject to, or knows of any basis for, any Environmental Liability.

(c) Neither the Borrower nor any of its Restricted Subsidiaries has conducted any Hazardous Materials Activities in a manner that would reasonably be expected to have a Material Adverse Effect.

Section 3.07 Compliance with Laws. Each of Holdings, Intermediate Holdings, the Borrower and each of its Restricted Subsidiaries is in compliance with all Requirements of Law applicable to it or its property, except, in each case, where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect; it being understood and agreed that this Section 3.07 shall not apply to the Requirements of Law covered by Section 3.15.

Section 3.08 Investment Company Status. None of the Loan Parties is an "investment company" as defined in, or is required to be registered under, the Investment Company Act of 1940.

Section 3.09 Taxes. Each of Holdings, Intermediate Holdings, the Borrower and each of its Restricted Subsidiaries has timely filed or caused to be filed all Tax returns and reports required to have been filed and has paid or caused to be paid all Taxes required to have been paid by it that are due and payable (including in its capacity as a withholding agent), except (a) Taxes (or any requirement to file Tax returns with respect thereto) that are being contested in good faith by appropriate proceedings and for which Holdings, Intermediate Holdings, the Borrower or such Restricted Subsidiary, as applicable, has set aside on its books adequate reserves in accordance with GAAP or (b) to the extent that the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

Section 3.10 ERISA.

(a) Each Plan is in compliance in form and operation with its terms and with ERISA and the Code and all other applicable Requirements of Law, except where any failure to comply would not reasonably be expected to result in a Material Adverse Effect. There are no pending, or to the knowledge of the Borrower or any of its Restricted Subsidiaries, threatened material claims (other than claims for benefits in the ordinary course), sanctions, actions, suits, or proceedings asserted or instituted by any Person against any Plan or any Person as fiduciary or sponsor of any Plan, except as would not result in a Material Adverse Effect.

(b) No ERISA Event has occurred and is continuing or is reasonably expected to occur that, when taken together with all other such ERISA Events, would reasonably be expected to result in a Material Adverse Effect.

Section 3.11 Disclosure.

(a) As of the Closing Date, all written information (other than the Projections, other forward-looking and/or projected information and information of a general economic or industry-specific nature) concerning Holdings, Intermediate Holdings, the Borrower and its subsidiaries that was included in the Information Memorandum or otherwise prepared by or on behalf of Holdings, Intermediate Holdings, the Borrower and its subsidiaries or their respective representatives and made available to any Initial Lender or the Administrative Agent in connection with the Transactions on or before the Closing Date (the "Information"), when taken as a whole, did not, when furnished, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein not materially misleading in light of the circumstances under which such statements are made (after giving effect to all supplements and updates thereto from time to time).

(b) The Projections have been prepared in good faith based upon assumptions believed by the Borrower to be reasonable at the time furnished (it being recognized that such Projections are not to be viewed as facts and are subject to significant uncertainties and contingencies, many of which are beyond the Borrower's control, that no assurance can be given that any particular financial projections will be realized, that actual results may differ from projected results and that such differences may be material).

(c) As of the Closing Date, the information included in the Beneficial Ownership Certification is true and correct in all material respects.

Section 3.12 Security Interest in Collateral. Subject to the terms of the last paragraph of Section 4.01, the Legal Reservations, the Perfection Requirements, the Intercreditor Agreement and the provisions of this Agreement and the other relevant Loan Documents, the Collateral Documents create legal, valid and enforceable Liens on all of the Collateral in favor of the Administrative Agent, for the benefit of itself and the other Secured Parties, and upon the satisfaction of the applicable Perfection Requirements, such Liens constitute perfected Liens (with the priority that such Liens are expressed to have under the relevant Collateral Documents) on the Collateral (to the extent such Liens are required to be perfected under the terms of the Loan Documents) securing the Secured Obligations, in each case as and to the extent set forth therein.

Section 3.13 Labor Disputes. As of the Closing Date, except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, (a) there are no strikes, lockouts or slowdowns against the Borrower or any of its Restricted Subsidiaries pending or, to the knowledge of the Borrower, threatened and (b) the hours worked by and payments made to employees of the Borrower and its Restricted Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable Requirements of Law dealing with such matters.

Section 3.14 Federal Reserve Regulations.

(a) None of Holdings, Intermediate Holdings, the Borrower nor any of their respective Restricted Subsidiaries is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of buying or carrying Margin Stock.

(b) No part of the proceeds of any Loan has been or will be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, for any purpose that results in a violation of the provisions of Regulation U or Regulation X.

Section 3.15 Sanctions; Anti-Corruption Laws.

(a) None of Holdings, Intermediate Holdings, the Borrower, any of their respective Subsidiaries, any of their respective directors, officers, or employees nor, to the knowledge of the Borrower, any of their respective agents or Affiliates is (i) a Person on the list of "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC") or any other sanctions-related list of designated Persons maintained by OFAC, the U.S. Department of State, the United Nations Security Council, Her Majesty's Treasury of the United Kingdom, the European Union or any European Union member state, (ii) located, organized or resident in a Sanctioned Country, (iii) owned or controlled by any Person or Persons described in the foregoing clauses (a) or (a), or (iv) a Person otherwise currently the target of any Sanctions.

(b) Each of Holdings, Intermediate Holdings, the Borrower, each of their respective Subsidiaries, and to the Borrower's knowledge, each of their respective directors, officers, employees and agents is in compliance, in all material respects, with (i) applicable Sanctions, (ii) the USA PATRIOT Act, to the extent applicable, and (iii) the U.S. Foreign Corrupt Practices Act of 1977 (the " FCPA") and all other applicable anti-corruption laws (collectively with the FCPA, "Anti-Corruption Laws"). No Borrowing or the use of proceeds thereof will violate any Anti-Corruption Law or applicable Sanctions.

Section 3.16 Solvency.

As of the Closing Date and immediately after the consummation of the Transactions to occur on the Closing Date and the incurrence of indebtedness and obligations being incurred in connection with this Agreement and the Transactions on the Closing Date; (i) the sum of the debt (including contingent liabilities) of Holdings and its Subsidiaries, taken as a whole, does not exceed the fair value of the assets (on an ongoing basis) of Holdings and its Subsidiaries, taken as a whole; (ii) the present fair saleable value of the assets of Holdings and its Subsidiaries, taken as a whole, is not less than the amount that will be required to pay the probable liabilities (including contingent liabilities) of Holdings and its Subsidiaries, taken as a whole, on their debts as they become absolute and matured; (iii) the capital of Holdings and its Subsidiaries, taken as a whole, is not unreasonably small in relation to the business of Holdings and its Subsidiaries, taken as a whole, contemplated as of the Closing Date; and (iv) Holdings and its Subsidiaries, taken as a whole, do not intend to incur, or believe that they will incur, debts (including current obligations and contingent liabilities) beyond their ability to pay such debt as they mature in the ordinary course of business. For the purposes hereof, 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.

Section 3.17 Capitalization and Subsidiaries. Schedule 3.17 sets forth as of the Closing Date (immediately after giving to the Transactions) a correct and complete list containing (a) the name of each subsidiary of Holdings and the ownership interest therein held by Holdings or its applicable subsidiary, and (b) the type of entity of Holdings and each of its subsidiaries.

ARTICLE 4
CONDITIONS

Section 4.01 Closing Date. The obligations of each Lender to make Initial Term Loans on the Closing Date, hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

(a) Term Loan Agreement and Loan Documents. The Administrative Agent (or its counsel) shall have received (i) from each Loan Party party thereto, a counterpart signed by such Loan Party (or written evidence satisfactory to the Administrative Agent (which may include a facsimile or other electronic transmission) that such party has signed a counterpart) of (A) this Agreement, (B) the Security Agreement, (C) any Intellectual Property Security Agreement, (D) the Loan Guaranty, (E) the Intercreditor Agreement and (F) each Promissory Note requested by a Lender at least three Business Days prior to the Closing Date and (ii) a Borrowing Request as required by Section 2.03.

(b) Legal Opinions. The Administrative Agent shall have received, on behalf of itself and the Lenders on the Closing Date, a customary written opinion of Winston & Strawn LLP, in its capacity as special counsel to the Loan Parties, dated the Closing Date and addressed to the Administrative Agent and the Lenders.

(c) Financial Statements. The Administrative Agent shall have received (i) an audited consolidated balance sheet and audited consolidated statements of income, stockholders' equity and cash flows of the Target as of and for the Fiscal Years ended on or about October 31, 2015, October 31, 2016 and October 31, 2017, (ii) unaudited consolidated balance sheets and related statements of income and cash flows of the Target for the Fiscal Quarters ended on or about April 30, 2018 and July 31, 2018 and (iii) a pro forma consolidated balance sheet and related pro forma statement of income of the Borrower as of the last day of and for the four Fiscal Quarters ended on July 31, 2018, prepared after giving effect to the Transactions as if the Transactions had occurred as of such date (in the case of such balance sheet) or at the beginning of such period (in the case of the statement of income); provided, that each such pro forma financial statement shall be prepared in good faith by the Borrower.

(d) Secretary's Certificate and Good Standing Certificates. The Administrative Agent shall have received (i) a certificate of each Loan Party, dated the Closing Date and executed by a secretary, assistant secretary or other Responsible Officer thereof, which shall (A) certify that attached thereto are (x) a true and complete copy of the certificate or articles of incorporation, formation or organization of such Loan Party certified by the relevant authority of its jurisdiction of organization, which certificate or articles of incorporation, formation or organization of such Loan Party attached thereto have not been amended (except as attached thereto) since the date reflected thereon, (y) a true and correct copy of the by-laws or operating, management, partnership or similar agreement of such Loan Party, together with all amendments thereto as of the Closing Date and such by-laws or operating, management, partnership or similar agreement are in full force and effect and (z) a true and complete copy of the resolutions or written consent, as applicable, of its board of directors, board of managers, sole member or other applicable governing body authorizing the execution, delivery and performance of the Loan Documents, and, in the case of the Borrower, the borrowings and other obligations thereunder, which resolutions or consent have not been modified, rescinded or amended (other than as attached thereto) and are in full force and effect, and (B) identify by name and title and bear the signatures of the officers, managers, directors or authorized signatories of such Loan Party authorized to sign the Loan Documents to which such Loan Party is a party on the Closing Date and (ii) a good standing (or equivalent) certificate as of a recent date for such Loan Party from the relevant authority of its jurisdiction of organization.

(e) Representations and Warranties. The (i) Specified Acquisition Agreement Representations shall be true and correct to the extent required by the terms of the definition thereof and (ii) the Specified Representations shall be true and correct in all material respects on and as of the Closing Date; provided that (A) in the case of any Specified Representation which expressly relates to a given date or period, such representation and warranty shall be true and correct in all material respects as of the respective date or for the respective period, as the case may be and (B) if any Specified Representation is qualified by or subject to a "material adverse effect", "material adverse change" or similar term or qualification, (1) the definition thereof shall be the definition of "Material Adverse Effect" for purposes of the making or deemed making of such Specified Representation on, or as of, the Closing Date (or any date prior thereto) and (2) such Specified Representation shall be true and correct in all respects.

(f) Fees. Prior to or substantially concurrently with the funding of the Initial Term Loans hereunder, the Administrative Agent shall have received (i) all fees required to be paid by the Borrower on the Closing Date pursuant to the Fee Letter and (ii) all expenses required to be paid by the Borrower for which invoices have been presented at least three Business Days prior to the Closing Date or such later date as the Borrower may agree (including the documented reasonable fees and expenses of legal counsel), in each case on or before the Closing Date, which amounts may be offset against the proceeds of the Loans.

(g) Solvency. The Administrative Agent shall have received a certificate dated as of the Closing Date substantially in the form of Exhibit L from the chief financial officer (or other person with reasonably equivalent responsibilities) of the Borrower certifying as to the matters set forth therein.

(h) Pledged Stock and Pledged Notes. Subject to the final paragraph of this Section 4.01, the Administrative Agent shall have received (i) the certificates representing the Capital Stock required to be pledged pursuant to the Security Agreement, together with an undated stock power or similar instrument of transfer for each such certificate endorsed in blank by a duly authorized officer of the pledgor thereof, and (ii) each Material Debt Instrument (if any) endorsed (without recourse) in blank (or accompanied by a transfer form endorsed in blank) by the pledgor thereof.

(i) Perfection Certificate. The Administrative Agent shall have received a completed Perfection Certificate dated the Closing Date and signed by a Responsible Officer of each Loan Party, together with all attachments contemplated thereby.

(j) Filings, Registrations and Recordings. Subject to the last paragraph of this Section 4.01 and the terms of each applicable Collateral Document, each document (including any UCC (or similar) financing statement) required by the applicable Collateral Documents or under applicable Requirements of Law to be filed, registered or recorded in order to create in favor of the Administrative Agent, for the benefit of the Secured Parties, a perfected Lien on the Collateral required to be delivered pursuant to such Collateral Documents, prior and superior in right to any other Person (other than with respect to Permitted Liens and subject to the Intercreditor Agreement), shall be in proper form for filing, registration or recordation.

(k) Closing Date Material Adverse Effect. Except as otherwise contemplated by the Acquisition Agreement, since September 7, 2018, there shall not have occurred a Material Adverse Effect (as defined in the Acquisition Agreement as in effect on September 7, 2018) on the Target.

(l) Refinancing. Prior to or substantially concurrently with the funding of the Initial Term Loans hereunder, all existing third party debt for borrowed money of the Target and its subsidiaries, other than (A) Indebtedness outstanding under the ABL Facility, (B) Indebtedness permitted to remain outstanding after the Closing Date under the Acquisition Agreement and (C) Indebtedness described on Schedule 6.01 hereto, will be repaid, redeemed, defeased, discharged, refinanced or terminated (or irrevocable notice for the repayment or redemption thereof will be given to the extent accompanied by any prepayments or deposits required to defease, terminate and satisfy in full the obligations under any related indentures or notes) and all commitments thereunder shall have been terminated (the actions described in this Section 4.01(l), the "Target Refinancing").

(m) USA PATRIOT Act. No later than three Business Days in advance of the Closing Date, the Administrative Agent shall have received all documentation and other information reasonably requested by it in writing at least ten Business Days in advance of the Closing Date, which documentation or other information is required by regulatory authorities under applicable "know your customer", Beneficial Ownership Regulations and anti-money laundering rules and regulations, including the USA PATRIOT Act. At least three Business Days prior to the Closing Date, any Borrower that qualifies as a "legal entity customer" under the Beneficial Ownership Regulation shall deliver a Beneficial Ownership Certification in relation to such Borrower.

(n) Acquisition. Substantially concurrently with the funding of the Initial Term Loans hereunder, the Acquisition shall be consummated in accordance with the terms of the Acquisition Agreement.

(o) Equity Contributions. Prior to, or substantially concurrently with the funding of the Initial Term Loans hereunder:

(i) Holdings will enter into one or more subscription agreements with certain institutional and accredited investors and other investors identified to the Arrangers prior to the Closing Date (the "Closing Date Investors") and consummate transactions on the Closing Date (including "private investment in public equity" transactions and transactions that "backstop" redemptions by the Buyer's shareholders), pursuant to which the Closing Date Investors will purchase shares of common stock or convertible preferred or other equity (which such convertible preferred or other equity shall be reasonably satisfactory to the Arrangers; provided, it is agreed that the preferred equity contemplated to be issued by Holdings to one or more funds and accounts of Nuveen Alternatives Advisors, LLC pursuant to the Subscription Agreement, dated as of September 7, 2018 and as in effect on such date, between Holdings and Nuveen Alternatives Advisors, LLC and the related term sheet as in effect on such date, is reasonably satisfactory to the Arrangers) of Holdings for an aggregate purchase price of not less than $25,000,000 (the "Closing Date Investor Equity Contributions");

(ii) Sponsor and its Affiliates will purchase shares of Holdings' common stock or convertible preferred or other equity (which such convertible preferred or other equity shall be reasonably satisfactory to the Arrangers) for an aggregate purchase price not less than $27,400,000.00 (the "Sponsor Equity Contributions"); and

(iii) The Equity Contributions will be made in cash in an aggregate amount that, when taken together with the cash held in trust by the Buyer (less any redemptions by the Buyer's shareholders) (the "Buyer Trust Funds") and the fair market value (with fair market value deemed to be the actual redemption price of such equity as of the Closing Date (but not less than $10.20 per share)) of the equity of the Target's existing direct or indirect equity holders and/or members of management that will be retained, rolled over, converted or re-invested as shares of Holdings' common stock or convertible preferred or other equity (which such convertible preferred or other equity shall be reasonably satisfactory to the Lead Arrangers), if any, on the Closing Date (the "Rollover Equity") will constitute an aggregate amount not less than 37.5% of the sum of (A) the gross proceeds of the Initial Term Loans made on the Closing Date, (B) the proceeds of loans incurred under the ABL Facility incurred on the Closing Date used to finance a portion of the Transactions (excluding, in the case of clause (A) and (B), the proceeds of any Initial Term Loans or loans under the ABL Facility to fund original issue discount or upfront fees as a result of the application of the "flex provisions" of the Fee Letter, (C) the Equity Contributions, (D) the Buyer Trust Funds and (E) the Rollover Equity.

(p) ABL Credit Agreement. The "Loan Documents" (as defined in the ABL Credit Agreement) required by the terms of the ABL Credit Agreement to be executed on the Closing Date shall have been, or substantially concurrently with the making of the Initial Term Loans hereunder on the Closing Date shall be, duly executed and delivered by each Loan Party that is party thereto.

(q) Closing Certificate. The Administrative Agent shall have received a certificate signed by a Responsible Officer of the Borrower attesting to the matters set forth in Sections 4.01(e) and (k).

For purposes of determining whether the conditions specified in this Section 4.01 have been satisfied on the Closing Date, by funding the Loans hereunder, the Administrative Agent and each Lender shall be deemed to have consented to, approved or accepted, or to be satisfied with, each document or other matter required hereunder to be consented to or approved by or acceptable or satisfactory to the Administrative Agent or such Lender, as the case may be.

Notwithstanding the foregoing, to the extent that the Lien on any Collateral is not or cannot be created or perfected on the Closing Date (other than (a) execution and delivery of the Security Agreement by the Loan Parties, (b) a Lien on Collateral that is of the type that may be perfected solely by the filing of a financing statement under the UCC and (c) a Lien on the Capital Stock of the Borrower and each Subsidiary Guarantor (other than any subsidiary of the Target the certificate evidencing the Capital Stock of which has not been delivered to Merger Sub at least two Business Days prior to the Closing Date, to the extent Merger Sub has used commercially reasonable efforts to procure delivery thereof) that may be perfected on the Closing Date by the delivery of a stock or equivalent certificate (together with a stock power or similar instrument endorsed in blank for the relevant certificate)), in each case after the Merger Sub's use of commercially reasonable efforts to do so without undue burden or expense, then the creation and/or perfection of such Lien shall not constitute a condition precedent to the availability or initial funding of the Term Facility on the Closing Date.

ARTICLE 5
AFFIRMATIVE COVENANTS

From the Closing Date until the date that all Commitments have expired or terminated and the principal of and interest on each Loan and all fees, expenses and other amounts payable under any Loan Document (other than contingent indemnification obligations for which no claim or demand has been made) have been paid in full in Cash (such date, the "Termination Date"), Holdings (solely with respect to Section 5.01(a), 5.01(b), 5.02, 5.03, 5.12 and 5.14), Intermediate Holdings (solely with respect to Section 5.02, 5.03, 5.12 and 5.14) and the Borrower hereby covenant and agree with the Lenders that:

Section 5.01 Financial Statements and Other Reports. Holdings will deliver to the Administrative Agent for delivery to each Lender:

(a) Quarterly Financial Statements. As soon as available, and in any event within 45 days after the end of each of the first three Fiscal Quarters of each Fiscal Year, the consolidated balance sheet of Holdings as at the end of such Fiscal Quarter and the related consolidated statements of operations and cash flows of Holdings for such Fiscal Quarter and for the period from the beginning of the then current Fiscal Year to the end of such Fiscal Quarter, and setting forth, in reasonable detail, in comparative form the corresponding figures for the corresponding periods of the previous Fiscal Year, all in reasonable detail, together with a Responsible Officer Certification (which may be included in the applicable Compliance Certificate) with respect thereto; provided, that any comparison to a prior period will be a comparison between the entity or entities, as applicable, that issued the financial statements at the applicable time;

(b) Annual Financial Statements. As soon as available, and in any event within 90 days after the end of each Fiscal Year, (i) the consolidated balance sheet of Holdings as at the end of such Fiscal Year and the related consolidated statements of operations, stockholders' equity and cash flows of Holdings for such Fiscal Year and, commencing after the completion of the second full Fiscal Year ended after the Closing Date, setting forth, in reasonable detail, in comparative form the corresponding figures for the previous Fiscal Year and (ii) with respect to such consolidated financial statements, a report thereon of BDO USA, LLP or another independent certified public accountant of recognized national standing (which report shall be unqualified as to "going concern" and scope of audit (except for any such qualification pertaining to the impending maturity of any Indebtedness, including the Term Facility and/or the ABL Facility, occurring within 12 months of the date of the relevant audit opinion or the actual or prospective breach of any financial covenant), and shall state that such consolidated financial statements fairly present, in all material respects, the consolidated financial position of Holdings as at the dates indicated and the results of its operations and cash flows for the periods indicated in conformity with GAAP);

(c) Compliance Certificate. Together with each delivery of financial statements of Holdings pursuant to Sections 5.01(a) and (b), (i) a duly executed and completed Compliance Certificate and (ii) (A) a summary of the pro forma adjustments necessary to eliminate the accounts of Unrestricted Subsidiaries (if any) from such financial statements and (B) a list identifying each subsidiary of the Borrower as a Restricted Subsidiary or an Unrestricted Subsidiary as of the date of delivery of such Compliance Certificate or confirming that there is no change in such information since the later of the Closing Date and the date of the last such list;

(d) Narrative Report. Simultaneously with the delivery of each set of consolidated financial statements referred to in Sections 5.01(a) and (b) above, a Narrative Report;

(e) Notice of Default. Promptly upon any Responsible Officer of the Borrower obtaining knowledge of (i) any Default or Event of Default or (ii) the occurrence of any event or change that has caused or evidences, either individually or in the aggregate, a Material Adverse Effect, a reasonably-detailed notice specifying the nature and period of existence of such condition, event or change and what action the Borrower has taken, is taking and proposes to take with respect thereto;

(f) Notice of Litigation. Promptly upon any Responsible Officer of the Borrower obtaining knowledge of (i) the institution of, or threat of, any Adverse Proceeding not previously disclosed in writing by the Borrower to the Lenders, or (ii) any material development in any Adverse Proceeding that, in the case of either clause (i) or (ii), could reasonably be expected to have a Material Adverse Effect, written notice thereof from the Borrower together with such other non-privileged information as may be reasonably available to the Loan Parties to enable the Lenders to evaluate such matters;

(g) ERISA. Promptly upon any Responsible Officer of the Borrower becoming aware that any ERISA Event has occurred or is reasonably expected to occur that, alone or together with any other ERISA Event that has occurred or is reasonably expected to occur, could reasonably be expected to have a Material Adverse Effect, a written notice specifying the nature thereof;

(h) Financial Plan. As soon as available and in any event no later than 60 days after the beginning of each Fiscal Year, an annual budget prepared by management of the Borrower, consisting of condensed income statements on an annual basis for such Fiscal Year (such budget, the "Financial Plan");

(i) Information Regarding Collateral. Prompt (and, in any event, within 60 days of the relevant change (or such later date as the Administrative Agent may reasonably agree)) written notice of any change (i) in any Loan Party's legal name, (ii) in any Loan Party's type of organization or (iii) in any Loan Party's jurisdiction of organization, in each case to the extent such information is necessary to enable the Administrative Agent to perfect or maintain the perfection and priority of its security interest in the Collateral of the relevant Loan Party;

(j) Collateral Verification. Together with the delivery of each Compliance Certificate provided with the financial statements required to be delivered pursuant to Section 5.01(b), a Perfection Certificate Supplement;

(k) Beneficial Ownership Updates. Written notification of any change in the information provided in the Beneficial Ownership Certification that would result in a change to the list of beneficial owners identified in parts (c) or (d) of such certification.

(l) Certain Reports. Promptly upon their becoming available and without duplication of any obligations with respect to any such information that is otherwise required to be delivered under the provisions of any Loan Document, copies of all regular and periodic reports and all registration statements (other than on Form S-8 or a similar form) and prospectuses, if any, filed by Holdings, the Borrower or its applicable Parent Company with any securities exchange or with the SEC or any analogous governmental or private regulatory authority with jurisdiction over matters relating to securities;

(m) Other Information. Such other certificates, reports and information (financial or otherwise) as the Administrative Agent may reasonably request from time to time in connection with the financial condition or business of Holdings, Intermediate Holdings, the Borrower and its Restricted Subsidiaries, including information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with applicable "know your customer" requirements under the USA PATRIOT Act or other applicable anti-money laundering laws; provided, however, that none of Holdings, Intermediate Holdings, the Borrower nor any Restricted Subsidiary shall be required to disclose or provide any information (i) that constitutes non-financial trade secrets or non-financial proprietary information of Holdings, Intermediate Holdings, the Borrower or any of its subsidiaries or any of their respective customers and/or suppliers, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or any of their respective representatives) is prohibited by applicable Requirements of Law, (iii) that is subject to attorney-client or similar privilege or constitutes attorney work product or (iv) in respect of which Holdings, Intermediate Holdings, the Borrower or any Restricted Subsidiary owes confidentiality obligations to any third party (provided such confidentiality obligations were not entered into in contemplation of the requirements of this Section 5.01(m)); provided, further to the extent any certificates, reports or other information are withheld or otherwise not provided in reliance on any of the foregoing clauses (i) through (iv), the Borrower will provide notice to the Administrative Agent that such information is being withheld and the Borrower shall use commercially reasonable efforts to obtain the relevant consents under such obligations of confidentiality to permit the provision of such information; and

Documents required to be delivered pursuant to this Section 5.01 may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower (or a representative thereof) (x) posts or files such documents or (y) provides a link thereto, in each case, on EDGAR at www.sec.gov (or other successor government website that is freely and readily available to the Administrative Agent) or at the website address listed on Schedule 9.01; provided that, other than with respect to items required to be delivered pursuant to Section 5.01(m) above, the Borrower shall promptly notify (which notice may be by facsimile or electronic mail) the Administrative Agent of the posting of any such documents at the foregoing website addresses and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents; (ii) on which such documents are delivered by the Borrower to the Administrative Agent for posting on behalf of the Borrower on IntraLinks/SyndTrak or another relevant website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); or (iii) on which such documents are faxed to the Administrative Agent (or electronically mailed to an address provided by the Administrative Agent).

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Arrangers will make available to the Lenders materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks or another similar electronic system (the "Platform") and (b) certain of the Lenders (each, a "Public Lender") may have personnel who do not wish to receive MNPI with respect to the Borrower and its Restricted Subsidiaries, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to any such Persons' securities. The Borrower hereby agrees that it will use commercially reasonable efforts to identify that portion of the Borrower Materials that may be distributed to the Public Lenders and that (w) all such Borrower Materials 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, the Arrangers, the L/C Issuers and the Lenders to treat such Borrower Materials as not containing any MNPI (although it may be sensitive and proprietary) (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 9.13); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information;" and (z) the Administrative Agent and the Arrangers shall treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Side Information." Notwithstanding the foregoing, the Borrower shall not be under any obligation to mark any Borrower Materials "PUBLIC." The Borrower agrees that (i) any Loan Documents, (ii) any financial statements delivered pursuant to Section 5.01 and (iii) any Compliance Certificates (excluding any annual budget required to be delivered pursuant to Section 5.01(h) to the extent attached to any Compliance Certificate) delivered pursuant to Section 5.01(c) will, in each case, be deemed to be "public-side" Borrower Materials and may be made available to Public Lenders; provided, however, that to the extent the Borrower believes in good faith that any Compliance Certificate (excluding any annual budget) contains MNPI, and the Borrower so advises the Administrative Agent in writing at the time of delivery of such Compliance Certificate, such Compliance Certificate shall not be deemed to be "public-side" Borrower Materials, but the Borrower shall promptly provide the Administrative Agent with a version of such Compliance Certificate that redacts any portions thereof that contain MNPI so that such redacted version may be "public-side" Borrower Material.

Section 5.02 Existence. Except as otherwise permitted under Section 6.07 or Section 6.11, Holdings, Intermediate Holdings and the Borrower will, and the Borrower will cause each of its Restricted Subsidiaries to, at all times preserve and keep in full force and effect its existence and all rights and franchises, licenses and permits material to its business except, other than with respect to the preservation of the existence of the Borrower, to the extent that the failure to do so would not reasonably be expected to result in a Material Adverse Effect; provided that, neither Holdings, Intermediate Holdings nor the Borrower nor any of its Restricted Subsidiaries shall be required to preserve any such existence (other than with respect to the preservation of existence of the Borrower), right, franchise, license or permit if a Responsible Officer of such Person or such Person's board of directors (or similar governing body) determines that the preservation thereof is no longer desirable in the conduct of the business of such Person, and that the loss thereof is not disadvantageous in any material respect to such Person or to the Lenders.

Section 5.03 Payment of Taxes. Each of Holdings, Intermediate Holdings and the Borrower will, and the Borrower will cause each of its Restricted Subsidiaries to, pay all Taxes imposed upon it or any of its properties or assets or in respect of any of its income or businesses or franchises as the same become due and payable; provided, however, that no such Tax need be paid if (a) it is being contested in good faith by appropriate proceedings, so long as (i) adequate reserves or other appropriate provisions, as are required in conformity with GAAP, have been made therefor and (ii) in the case of a Tax which has resulted or may result in the creation of a Lien on any of the Collateral, such contest proceedings conclusively operate to stay the sale of any portion of the Collateral to satisfy such Tax or (b) failure to pay or discharge the same would not reasonably be expected to result in a Material Adverse Effect.

Section 5.04 Maintenance of Properties. The Borrower will, and the Borrower will cause each of its Restricted Subsidiaries to, maintain or cause to be maintained in good repair, working order and condition, ordinary wear and tear excepted, all property (including all IP Rights) reasonably necessary to the normal conduct of business of the Borrower and its Restricted Subsidiaries and from time to time will make or cause to be made all needed and appropriate repairs, renewals and replacements thereof except as expressly permitted by this Agreement or where the failure to maintain such properties or make such repairs, renewals or replacements would not reasonably be expected to have a Material Adverse Effect. In addition, the Borrower will, and will cause each of its Restricted Subsidiaries to take all reasonable actions to preserve, protect, enforce, renew and keep in full force and effect all IP Rights used in their respective businesses except where the failure to so preserve, protect, enforce, renew or keep in full force would not reasonably be expected to have a Material Adverse Effect.

Section 5.05 Insurance. The Borrower will maintain or cause to be maintained, with financially sound and reputable insurers, such insurance coverage with respect to liabilities, losses or damage in respect of the assets, properties and businesses of the Borrower and its Restricted 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, including flood insurance with respect to each Flood Hazard Property, in each case in compliance with the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973 (where applicable). Each such policy of insurance maintained (excluding any business interruption insurance policy, workers' compensation policy, employee liability policy and any other insurance policy in which such endorsements are not customary) shall, subject to Section 5.15, (i) name the Administrative Agent on behalf of the Secured Parties as an additional insured thereunder as its interests may appear and (ii) to the extent available from the relevant insurance carrier, in the case of each casualty insurance policy, contain a loss payable clause or endorsement that names the Administrative Agent, on behalf of the Lenders as the loss payee thereunder and, to the extent available, provide for at least 30 days' prior written notice (or 10 days' prior written notice for any cancellation due to non-payment of premiums) to the Administrative Agent of any cancellation of such policy, or the failure to pay any premiums thereunder.

Section 5.06 Inspections. The Borrower will, and the Borrower will cause each of its Restricted Subsidiaries to, permit any authorized representative designated by the Administrative Agent to visit and inspect any of the properties of the Borrower or any of its Restricted Subsidiaries at which the principal financial records and executive officers of the applicable Person are located, to inspect, copy and take extracts from its and their respective financial and accounting records, and to discuss its and their respective affairs, finances and accounts with its and their Responsible Officers (provided that the Borrower (or any of its subsidiaries) may, if it so chooses, be present at or participate in any such discussion), all upon reasonable notice and at reasonable times during normal business hours; provided that, (a) only the Administrative Agent on behalf of the Lenders may exercise the rights of the Administrative Agent and the Lenders under this Section 5.06 and (b) except as expressly set forth in the proviso below during the continuance of an Event of Default, (i) the Administrative Agent shall not exercise such rights more often than one time during any calendar year and (ii) only one such time per calendar year shall be at the expense of the Borrower; provided, further, that when an Event of Default exists, the Administrative Agent (or any of its representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and upon reasonable advance notice; provided, further, that notwithstanding anything to the contrary herein, neither the Borrower nor any Restricted Subsidiary shall be required to disclose, permit the inspection, examination or making of copies of or taking abstracts from, or discuss any document, information, or other matter (A) that constitutes non-financial trade secrets or non-financial proprietary information of the Borrower and its subsidiaries and/or any of its customers and/or suppliers, (B) in respect of which disclosure to the Administrative Agent or any Lender (or any of their respective representatives or contractors) is prohibited by applicable Requirements of Law, (C) that is subject to attorney-client or similar privilege or constitutes attorney work product or (D) in respect of which Holdings, Intermediate Holdings, the Borrower or any Restricted Subsidiary owes confidentiality obligations to any third party (provided such confidentiality obligations were not entered into in contemplation of the requirements of this Section 5.06); provided, to the extent any documents, information or other matters are withheld or otherwise not made available for inspection in reliance on any of the foregoing clauses (A) through (D), the Borrower will provide notice to the Administrative Agent that such information is being withheld and the Borrower shall use commercially reasonable efforts to obtain the relevant consents under such obligations of confidentiality to permit the provision or inspection of such documents, information or other matters.

Section 5.07 Maintenance of Book and Records. The Borrower will, and the Borrower will cause each of its Restricted Subsidiaries to, maintain proper books of record and account containing entries of all material financial transactions and matters involving the assets and business of the Borrower and its Restricted Subsidiaries that are full, true and correct in all material respects and permit the preparation of consolidated financial statements in accordance with GAAP (it being understood and agreed that Foreign Subsidiaries may maintain individual books and records in a manner to allow financial statements to be prepared in conformity with generally accepted accounting principles that are applicable in their respective jurisdictions of organization).

Section 5.08 Compliance with Laws. The Borrower will, and the Borrower will cause each of its Restricted Subsidiaries to, comply with the requirements of (i) all applicable Requirements of Law (including all applicable Environmental Laws and ERISA, but excluding Sanctions, the USA PATRIOT Act and the Anti-Corruption Laws), except to the extent the failure of the Borrower or the relevant Restricted Subsidiary to comply would not reasonably be expected to have a Material Adverse Effect and (ii) the USA PATRIOT Act, Anti-Corruption Laws and applicable Sanctions in all material respects.

Section 5.09 Environmental.

(a) Environmental Disclosure. The Borrower will deliver to the Administrative Agent:

(i) as soon as practicable following receipt thereof, copies of all environmental audits, investigations, analyses and reports of any kind or character, whether prepared by personnel of the Borrower or any of its Restricted Subsidiaries or by independent consultants, Governmental Authorities or any other Persons, with respect to environmental matters at the Borrower's or its Restricted Subsidiaries' real property or with respect to any Environmental Claims or Environmental Liabilities that, in each case might reasonably be expected to have a Material Adverse Effect;

(ii) promptly upon the occurrence thereof, written notice describing in reasonable detail (A) any Release that would reasonably be expected to have a Material Adverse Effect, (B) any action taken by the Borrower or any of its Restricted Subsidiaries or any other Persons of which the Borrower has knowledge in response to (1) any Hazardous Materials Activities, (2) any Environmental Claim or (3) any Environmental Liability that in each case would reasonably be expected to have a Material Adverse Effect, or (C) discovery by the Borrower or any of its Restricted Subsidiaries of any occurrence or condition on or at any Facility or any real property adjoining or in the vicinity of any Facility that reasonably would be expected, individually or in the aggregate, to have a Material Adverse Effect;

(iii) as soon as practicable following the sending or receipt thereof by the Borrower or any of its Restricted Subsidiaries, a copy of any and all written communications with respect to any of the following that would reasonably be expected to have a Material Adverse Effect: (A) any Environmental Claim, (B) any Release, (C) any Environmental Liability and (D) any request made to the Borrower or any of its Restricted Subsidiaries for information from any Governmental Authority that suggests such Governmental Authority is investigating whether the Borrower or any of its Restricted Subsidiaries may be potentially responsible for any Hazardous Materials Activity;

(iv) prompt written notice describing in reasonable detail (A) any proposed acquisition of stock, assets, or property by the Borrower or any of its Restricted Subsidiaries that would reasonably be expected to expose the Borrower or any of its Restricted Subsidiaries to, or result in, Environmental Claims against the Borrower or any of its Restricted Subsidiaries or any Environmental Liability that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and (B) any proposed action to be taken by the Borrower or any of its Restricted Subsidiaries to modify their operations in a manner that would subject the Borrower or any of its Restricted Subsidiaries to (x) any additional obligations or requirements under any Environmental Law or (y) Environmental Liability, in each case, that would reasonably be expected to have a Material Adverse Effect; and

(v) with reasonable promptness, such other documents and information as from time to time may be reasonably requested by the Administrative Agent in relation to any matters disclosed pursuant to this Section 5.09(a).

(b) Hazardous Materials Activities, Etc. The Borrower shall promptly take, and shall cause each of its Restricted Subsidiaries promptly to take, any and all actions necessary to (i) cure any violation of applicable Environmental Laws by the Borrower or its Restricted Subsidiaries, and address with appropriate corrective or remedial action any Release or threatened Release of Hazardous Materials, in each case, that would reasonably be expected to have a Material Adverse Effect and (ii) make an appropriate response to any Environmental Claim against or Environmental Liability related to the Borrower or any of its Restricted Subsidiaries and discharge any obligations it may have to any Person thereunder, in each case, where failure to do so would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 5.10 Designation of Subsidiaries. The Borrower may at any time after the Closing Date designate (or redesignate) any subsidiary as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Restricted Subsidiary; provided that (i) immediately before and after such designation, no Event of Default shall have occurred and be continuing (including after giving effect to the reclassification of Investments in, Indebtedness of and Liens on the assets of, the applicable Restricted Subsidiary or Unrestricted Subsidiary), (ii) the Total Leverage Ratio shall not exceed 4.20:1.00, calculated on a Pro Forma Basis after giving effect to the relevant designation, (iii) no subsidiary may be designated as an Unrestricted Subsidiary if it is a "Restricted Subsidiary" for purposes of the ABL Credit Agreement and (iv) as of the date of designation thereof, no Unrestricted Subsidiary shall own any Capital Stock in any Restricted Subsidiary of the Borrower. The designation of any subsidiary as an Unrestricted Subsidiary shall constitute an Investment by the Borrower therein at the date of designation in an amount equal to the portion of the fair market value of the net assets of such Restricted Subsidiary attributable to the Borrower's equity interest therein (whether direct or indirect) as reasonably estimated by the Borrower (and such designation shall only be permitted to the extent such Investment is permitted under Section 6.06). The designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute the making, incurrence or granting as applicable, at the time of designation of any then-existing Investment, Indebtedness or Lien of such Restricted Subsidiary, as applicable; provided that upon any re-designation of any Unrestricted Subsidiary as a Restricted Subsidiary, the Borrower shall be deemed to continue to have an Investment in the resulting Restricted Subsidiary in an amount (if positive) equal to (a) the Borrower's "Investment" in such subsidiary as calculated at the time re-designated as a Restricted Subsidiary, *less* (b) the portion of the fair market value of the net assets of such Restricted Subsidiary attributable to the Borrower's equity therein (whether direct or indirect) as reasonably estimated by the Borrower at the time of such re-designation.

Section 5.11 Use of Proceeds. The Borrower shall use the proceeds of the Initial Term Loans made on the Closing Date solely to finance a portion of the Transactions (including the payment of Transaction Costs). No part of the proceeds of any Loan, will be used, directly or, to the Borrower's knowledge, indirectly, (i) in furtherance of an offer, payment, promise to pay or authorization of the payment or giving of money, or anything else of value, to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of Anti-Corruption Laws, (ii) to fund any activities or business of or with any Person, that, at the time of such funding, is the subject of Sanctions or in any country that, at the time of such funding, is a Sanctioned Country or (iii) in any manner that would result in a violation of applicable Sanctions.

Section 5.12 Covenant to Guarantee Obligations and Give Security.

(a) Upon (i) the formation or acquisition after the Closing Date of any Restricted Subsidiary that is a Domestic Subsidiary, (ii) the designation of any Unrestricted Subsidiary that is a Domestic Subsidiary as a Restricted Subsidiary, (iii) any Restricted Subsidiary that is a Domestic Subsidiary ceasing to be an Immaterial Subsidiary or (iv) any Restricted Subsidiary that was an Excluded Subsidiary ceasing to be an Excluded Subsidiary, (x) if the event giving rise to the obligation under this Section 5.12(a) occurs during the first three Fiscal Quarters of any Fiscal Year, on or before the date on which financial statements are required to be delivered pursuant to Section 5.01(a) for the Fiscal Quarter in which the relevant formation, acquisition, designation or cessation occurred (provided that if such date is less than 60 days after the relevant formation, acquisition, designation or cessation occurred, then the date in this clause (x) shall be deemed to be the date that is 60 days after the relevant formation, acquisition, designation or cessation occurred), or (y) if the event giving rise to the obligation under this Section 5.12(a) occurs during the fourth Fiscal Quarter of any Fiscal Year, on or before the date that is 60 days after the end of such Fiscal Quarter (or, in the cases of clauses (x) and (y), such longer period as the Administrative Agent may reasonably agree), the Borrower shall (A) cause such Restricted Subsidiary (other than any Excluded Subsidiary) to comply with the requirements set forth in clause (a) of the definition of "Collateral and Guarantee Requirement", (B) upon the reasonable request of the Administrative Agent, cause the relevant Restricted Subsidiary to deliver to the Administrative Agent a signed copy of a customary opinion of counsel for such Restricted Subsidiary, addressed to the Administrative Agent and the other relevant Lender and (C) cause any applicable Loan Party to comply with the requirements set forth in clause (b) of the definition of "Collateral and Guarantee Requirement".

(b) Within 90 days after the acquisition by any Loan Party of any Material Real Estate Assets other than any Excluded Asset (or such longer period as the Administrative Agent may reasonably agree), the Borrower shall cause such Loan Party to comply with the requirements set forth in clause (b) of the definition of "Collateral and Guarantee Requirement"; it being understood and agreed that, with respect to any Material Real Estate Asset owned by any Restricted Subsidiary at the time such Restricted Subsidiary is required to become a Loan Party under Section 5.12(a) above, such Material Real Estate Asset shall be deemed to have been acquired by such Restricted Subsidiary on the first day of the time period within which such Restricted Subsidiary is required to become a Loan Party under Section 5.12(a).

(c) Notwithstanding anything to the contrary herein or in any other Loan Document, it is understood that:

(i) the Administrative Agent may grant extensions of time for the creation and perfection of security interests in, or obtaining of legal opinions or other deliverables with respect to, particular assets or the provision of any Loan Guaranty by any Restricted Subsidiary (in connection with assets acquired, or Restricted Subsidiaries formed or acquired, after the Closing Date), and each Lender hereby consents to any such extension of time,

(ii) any Lien required to be granted from time to time pursuant to the definition of "Collateral and Guarantee Requirement" shall be subject to the exceptions and limitations set forth in the Collateral Documents,

(iii) perfection by control shall not be required with respect to assets requiring perfection through control agreements or other control arrangements, including deposit accounts, securities accounts and commodities accounts (other than any control of pledged Capital Stock (to the extent certificated) and/or Material Debt Instruments to the extent required by the ABL Credit Agreement and subject to the Intercreditor Agreement);

(iv) no Loan Party shall be required to seek any landlord lien waiver, bailee letter, estoppel, warehouseman waiver or other collateral access or similar letter or agreement;

(v) no Loan Party will be required to (A) take any action outside of the U.S. in order to grant or perfect any security interest in any asset located outside of the U.S., (B) execute any foreign law security agreement, pledge agreement, mortgage, deed or charge or (C) make any foreign intellectual property filing, conduct any foreign intellectual property search or prepare any foreign intellectual property schedule;

(vi) in no event will the Collateral include any Excluded Asset,

(vii) no action shall be required to perfect any Lien with respect to (1) any vehicle or other asset subject to a certificate of title (except with respect to any such vehicle or asset that has a fair market value (as determined in good faith by the Borrower) in excess of $150,000), (2) Letter-of-Credit Rights (except with respect to any Letter-of-Credit Rights with a value equal to or greater than $2,500,000), (3) the Capital Stock of any Immaterial Subsidiary and/or (4) the Capital Stock of any Person that is not a subsidiary, which Person, if a subsidiary, would constitute an Immaterial Subsidiary, in each case except to the extent that a security interest therein can be perfected by filing a Form UCC-1 (or similar) financing statement under the UCC,

(viii) no action shall be required to perfect a Lien in any asset in respect of which the perfection of a security interest therein would (1) be prohibited by enforceable anti-assignment provisions set forth in any contract that is permitted or otherwise not prohibited by the terms of this Agreement, (2) violate the terms of any contract relating to such asset that is permitted or otherwise not prohibited by the terms of this Agreement or (3) trigger termination of any contract relating to such asset that is permitted or otherwise not prohibited by the terms of this Agreement pursuant to any "change of control" or similar provision,

(ix) no Loan Party shall be required to perfect a security interest in any asset to the extent the perfection of a security interest in such asset would (A) be prohibited under any applicable Requirement of Law and/or (B) result in material adverse tax consequences to any Loan Party as reasonably determined by the Borrower and specified in a written notice to the Administrative Agent,

(x) any joinder or supplement to any Loan Guaranty, any Collateral Document and/or any other Loan Document executed by any Restricted Subsidiary that is required to become a Loan Party pursuant to Section 5.12(a) above may, with the consent of the Administrative Agent (not to be unreasonably withheld or delayed), include such schedules (or updates to schedules) as may be necessary to qualify any representation or warranty set forth in any Loan Document to the extent necessary to ensure that such representation or warranty is true and correct to the extent required thereby or by the terms of any other Loan Document, and

(xi) the Administrative Agent shall not require the taking of a Lien on, or require the perfection of any Lien granted in, those assets as to which the cost of obtaining or perfecting such Lien (including any mortgage, stamp, intangibles or other tax or expenses relating to such Lien) is excessive in relation to the benefit to the Lenders of the security afforded thereby as reasonably determined by the Borrower and the Administrative Agent.

Section 5.13 Maintenance of Ratings. The Borrower shall use commercially reasonable efforts to maintain (i) a public facility rating from each of S&P and Moody's and (ii) a public corporate credit rating and public corporate family rating (as applicable) from each of S&P and Moody's; provided that in no event shall the Borrower be required to maintain any specific rating with any such agency.

Section 5.14 Further Assurances. Promptly upon request of the Administrative Agent and subject to the limitations described in Section 5.12:

(a) Holdings, Intermediate Holdings and the Borrower will, and will cause each other Loan Party to, execute any and all further documents, financing statements, agreements, instruments, certificates, notices and acknowledgments and take all such further actions (including the filing and recordation of financing statements, fixture filings, Mortgages and/or amendments thereto and other documents), that may be required under any applicable Requirements of Law and which the Administrative Agent may reasonably request to cause to ensure the creation, perfection and priority of the Liens created or intended to be created under the Collateral Documents, all at the expense of the relevant Loan Parties.

(b) Holdings, Intermediate Holdings and the Borrower will, and will cause each other Loan Party to, promptly (i) correct any material defect or error that may be discovered in the execution, acknowledgment, filing or recordation of any Collateral Document or other document or instrument relating to any Collateral and (ii) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments, in each case under this clause (b), as the Administrative Agent may reasonably request from time to time to create, perfect and maintain the priority of the security interests intended to be granted under the relevant Collateral Documents.

Section 5.15 Lender Calls. Following each delivery of financial statements pursuant to Section 5.01(a) or (b), the Borrower shall participate in a conference call with Lenders arranged by the Administrative Agent to provide discussion and analysis with respect to the financial condition and results of operations of the Borrower and its Restricted Subsidiaries at a time reasonably requested by the Administrative Agent.

Section 5.16 Post-Closing Obligations.

(a) Within 90 days of the Closing Date, with respect to the Real Estate Assets listed on Schedule 1.01(c) (other than Excluded Real Property), the Borrower shall comply with the requirements set forth in clause (b) of the definition of "Collateral and Guarantee Requirement".

(b) No later than the time periods after the Closing Date set forth therein (or such longer period as the Administrative Agent may reasonably agree), the items set forth on Schedule 5.16 shall be satisfied.

(c) All conditions precedent, covenants and representations and warranties contained in this Agreement and the other Loan Documents shall be deemed modified to the extent necessary to permit the taking of the actions described on Schedule 5.16 within the time periods required by this Section 5.16, rather than as elsewhere provided in the Loan Documents.

ARTICLE 6
NEGATIVE COVENANTS

From the Closing Date and until the Termination Date has occurred, each of Holdings (solely with respect to Sections 6.11 and 6.13(i)), Intermediate Holdings (solely with respect to Section 6.11 and 6.13(i)) and the Borrower covenant and agree with the Lenders that:

Section 6.01 Indebtedness. The Borrower shall not, nor shall it permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, assume or otherwise become or remain liable with respect to any Indebtedness, except:

(a) the Secured Obligations (including any Additional Term Loans);

(b) Indebtedness of the Borrower owed to any Restricted Subsidiary and/or of any Restricted Subsidiary or the Borrower owed to Holdings, Intermediate Holdings, the Borrower and/or any other Restricted Subsidiary; provided that in the case of any Indebtedness of any Restricted Subsidiary that is not a Loan Party owing to the Borrower or any Subsidiary Guarantor, such Indebtedness shall be permitted as an Investment under Section 6.06; provided, further, that any Indebtedness of any Loan Party owing to any Restricted Subsidiary that is not a Loan Party must be expressly subordinated to the Obligations of such Loan Party pursuant to the Intercompany Indebtedness Subordination Agreement or on terms that are otherwise reasonably acceptable to the Administrative Agent;

(c) unsecured Indebtedness arising from any agreement providing for indemnification, adjustment of purchase price or similar obligations (including seller notes and contingent earn-out obligations) incurred in connection with any Disposition permitted hereunder or any Permitted Acquisition or other permitted Investment, in an aggregate principal amount outstanding at any time not to exceed the greater of $30,000,000 and 37.5% of Consolidated Adjusted EBITDA for the most recently ended Test Period;

(d) Indebtedness of the Borrower and/or any Restricted Subsidiary (i) pursuant to tenders, statutory obligations, bids, leases, governmental contracts, trade contracts, surety, stay, customs, appeal, performance and/or return of money bonds or other similar obligations incurred in the ordinary course of business and (ii) in respect of any letters of credit, bank guaranties, surety bonds, performance bonds or similar instruments to support any of the foregoing items;

(e) Indebtedness of the Borrower and/or any Restricted Subsidiary in respect of commercial credit cards, stored value cards, purchasing cards, treasury management services, netting services, overdraft protections, check drawing services, automated payment services (including depository, overdraft, controlled disbursement, ACH transactions, return items and interstate depository network services), employee credit card programs, cash pooling services and any arrangements or services similar to any of the foregoing and/or otherwise in connection with Cash management and Deposit Accounts, including Banking Services Obligations and incentive, supplier finance or similar programs;

(f) (i) Guarantees by the Borrower or any of its Restricted Subsidiaries of the obligations of suppliers, customers and licensees in the ordinary course of business, (ii) Indebtedness incurred in the ordinary course of business in respect of obligations of the Borrower and/or any Restricted Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services and (iii) Indebtedness in respect of letters of credit, bankers' acceptances, bank guaranties or similar instruments supporting trade payables, warehouse receipts or similar facilities entered into in the ordinary course of business;

(g) Guarantees by the Borrower and/or any Restricted Subsidiary of Indebtedness or other obligations of the Borrower, any Restricted Subsidiary with respect to Indebtedness otherwise permitted to be incurred pursuant to this Section 6.01 or other obligations not prohibited by this Agreement; provided that in the case of any Guarantee by any Loan Party of the obligations of any non-Loan Party, the related Investment is permitted under Section 6.06;

(h) Indebtedness of the Borrower and/or any Restricted Subsidiary existing, or pursuant to commitments existing, on the Closing Date and described on Schedule 6.01 and intercompany Indebtedness outstanding on the Closing Date;

(i) Indebtedness of Restricted Subsidiaries that are not Loan Parties; provided that the aggregate principal amount at any time outstanding of such Indebtedness shall not exceed the Non-Loan Party Cap;

(j) Indebtedness of the Borrower and/or any Restricted Subsidiary with respect to Capital Leases and purchase money Indebtedness incurred prior to or within 270 days of the acquisition, lease, completion of construction, repair of, replacement, improvement to or installation of the assets acquired, leased, constructed, repaired, replaced, improved or installed in connection with the incurrence of such Indebtedness in an aggregate outstanding principal amount not to exceed the greater of $10,000,000 and ten percent (10%) of Consolidated Adjusted EBITDA for the most recently ended Test Period;

(k) Indebtedness of any Person that becomes a Restricted Subsidiary or Indebtedness assumed in connection with a Permitted Acquisition or other permitted Investment; provided that (i) such Indebtedness (A) existed at the time such Person became a Restricted Subsidiary or the assets subject to such Indebtedness were acquired and (B) was not created or incurred in anticipation thereof, (ii) no Event of Default exists or would result from such acquisition, (iii) after giving effect to the assumption thereof, the outstanding principal amount of Non-Loan Party Indebtedness does not exceed the Non-Loan Party Cap and (iv) after giving effect to the assumption thereof, (1) if such Indebtedness is secured by a Lien on the Collateral that is pari passu with the Lien on the Collateral securing the Secured Obligations, the First Lien Leverage Ratio does not exceed 3.50:1.00, (2) if such Indebtedness is secured by a Lien on the Collateral that is junior to the Lien on the Collateral securing the Secured Obligations, the Secured Leverage Ratio does not exceed 3.75:1.00 and (3) if such Indebtedness is unsecured, the Total Leverage Ratio does not exceed 4.20:1.00;

(l) Indebtedness consisting of promissory notes issued by the Borrower or any Restricted Subsidiary to any stockholder of any Parent Company or any current or former director, officer, employee, member of management, manager or consultant of any Parent Company, the Borrower or any subsidiary (or their respective Immediate Family Members) to finance the purchase or redemption of Capital Stock of any Parent Company permitted by Section 6.04(a);

(m) the Borrower and any of its Restricted Subsidiaries may become and remain liable for any Indebtedness refinancing, refunding or replacing any Indebtedness permitted under this clause (m) and clauses (a), (c), (h), (i), (j), (k), (o), (q), (s) and (x) of this Section 6.01 (in any case, including any refinancing Indebtedness incurred in respect thereof, "Refinancing Indebtedness") and any subsequent Refinancing Indebtedness in respect thereof; provided that any refinancing, refunding or replacement of Indebtedness permitted under Section 6.01(c), (i), (j), (o), (s) or (x) shall continue to constitute utilization of the applicable basket; provided further that:

(i) the principal amount of such Indebtedness does not exceed the principal amount of the Indebtedness being refinanced, refunded or replaced, except by (A) an amount equal to unpaid accrued interest and premiums (including tender premiums) thereon plus underwriting discounts, other reasonable and customary fees, commissions and expenses (including upfront fees, original issue discount or initial yield payments) incurred in connection with the relevant refinancing, refunding or replacement and (B) additional amounts permitted to be incurred pursuant to this Section 6.01 (so long as such Indebtedness is permitted to be incurred pursuant to a subsection of this Section 6.01, other than this Section 6.01(m), and, to the extent secured by Liens, such Liens are permitted to secure such Indebtedness pursuant to a subsection of Section 6.02, other than Section 6.02(k) and is deemed to constitute a utilization of the relevant basket or exception pursuant to which such additional amount is permitted),

(ii) other than in the case of Refinancing Indebtedness with respect to clauses (h), (j), (k), and/or (o) of this Section 6.01 (A) such Indebtedness has a final maturity equal to or later than (and, in the case of revolving Indebtedness, does not require mandatory commitment reductions, if any, prior to) the final maturity of the Indebtedness being refinanced, refunded or replaced and (B) other than with respect to revolving Indebtedness, a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of the Indebtedness being refinanced, refunded or replaced,

(iii) the terms of any Refinancing Indebtedness (excluding pricing, fees, premiums, rate floors, optional prepayment or redemption terms (and, if applicable, subordination terms) and, with respect to Refinancing Indebtedness incurred in respect of Indebtedness permitted under clause (a) above, security), are not, taken as a whole (as reasonably determined by the Borrower), more favorable to the lenders providing such Indebtedness than those applicable to the Indebtedness being refinanced, refunded or replaced (other than any covenants or any other provisions applicable only to periods after the Latest Maturity Date as of such date or any covenants or provisions which are then-current market terms for the applicable type of Indebtedness),

(iv) except in the case of Refinancing Indebtedness incurred in respect of Indebtedness permitted under clause (a) of this Section 6.01, (A) such Indebtedness, if secured, is secured only by Permitted Liens at the time of such refinancing, refunding or replacement (it being understood that such secured Indebtedness may go from being secured to being unsecured), (B) such Indebtedness is incurred by the obligor or obligors in respect of the Indebtedness being refinanced, refunded or replaced, except to the extent otherwise permitted pursuant to Sections 6.01, 6.02 and 6.06 and (C) if the Indebtedness being refinanced, refunded or replaced was originally contractually subordinated to the Obligations in right of payment (or the Liens securing such Indebtedness were originally contractually subordinated to the Liens on the Collateral securing the Initial Term Loans), such Indebtedness is contractually subordinated to the Obligations in right of payment (or the Liens securing such Indebtedness are subordinated to the Liens on the Collateral securing the Initial Term Loans) on terms not materially less favorable (as reasonably determined by the Borrower), taken as a whole, to the Lenders than those applicable to the Indebtedness (or Liens, as applicable) being refinanced, refunded or replaced, taken as a whole,

(v) in the case of Refinancing Indebtedness incurred in respect of Indebtedness permitted under clause (a) of this Section 6.01, (A) such Indebtedness is pari passu or junior in right of payment and secured by the Collateral on a pari passu or junior basis with respect to the remaining Obligations hereunder, or is unsecured; provided that any such Indebtedness that is pari passu or junior with respect to the Collateral shall be subject to an Acceptable Intercreditor Agreement, (B) if the Indebtedness being refinanced, refunded or replaced is secured, it is not secured by any assets other than the Collateral, (C) if the Indebtedness being refinanced, refunded or replaced is Guaranteed, it shall not be Guaranteed by any Person other than one or more Loan Parties and (D) such Indebtedness is incurred under (and pursuant to) documentation other than this Agreement; it being understood and agreed that any such Indebtedness may not participate on a greater than pro rata basis in any mandatory prepayment in respect of the Initial Term Loans (and any Additional Term Loans then subject to ratable repayment requirements); and

(vi) intercompany Indebtedness under Section 6.01(h) may only be refinanced, refunded or replaced with other intercompany Indebtedness;

(n) [reserved];

(o) Indebtedness of the Borrower and/or any Restricted Subsidiary in an aggregate outstanding principal amount not to exceed $15,000,000;

(p) to the extent constituting Indebtedness, obligations arising under the Acquisition Agreement;

(q) additional Indebtedness of the Borrower and/or any Restricted Subsidiary so long as (i) no Event of Default has occurred and is continuing or would result therefrom and (ii) after giving effect thereto, including the application of the proceeds thereof (but without "netting" cash proceeds of the applicable Indebtedness), (i) (1) if such Indebtedness is secured by a Lien on the Collateral that is pari passu with the Lien on the Collateral securing the Secured Obligations, the First Lien Leverage Ratio does not exceed 3.50:1.00, (2) if such Indebtedness is secured by a Lien on the Collateral that is junior to the Lien on the Collateral securing the Secured Obligations, the Secured Leverage Ratio does not exceed 3.75:1.00 and (3) if such Indebtedness is unsecured, the Total Leverage Ratio does not exceed 4.20:1.00 (ii) any such Indebtedness that is subordinated to the Obligations in right of payment or collateral shall be subject to an Acceptable Intercreditor Agreement, (iii) the Weighted Average Life to Maturity applicable to such Indebtedness (other than customary bridge loans with a maturity date of no longer than one year; *provided* that any Indebtedness exchanged for such bridge loans shall be subject to the requirements of this clause (iii)) is no shorter than the Weighted Average Life to Maturity of the then-existing Term Loans, (iv) the final maturity date with respect to such Indebtedness (other than customary bridge loans with a maturity date of no longer than one year; provided that any Indebtedness exchanged for such bridge loans shall be subject to the requirements of this clause (iv)) is no earlier than the Latest Term Loan Maturity Date on the date of the issuance or incurrence, as applicable, thereof and (v) in the case of any such Indebtedness in the form of term loans (other than customary bridge loans) that are pari passu with the Initial Term Loans in right of payment and with respect to security, the Effective Yield applicable thereto will not be more than 0.50% per annum higher than the Effective Yield in respect of the Initial Term Loans unless the Effective Yield with respect to the Initial Term Loans is adjusted to be equal to the Effective Yield applicable to such Indebtedness, minus, 0.50% per annum; provided, however, that the aggregate outstanding principal amount of Non-Loan Party Indebtedness shall not, at any time, exceed the Non-Loan Party Cap;

(r) Indebtedness of the Borrower and/or any Restricted Subsidiary incurred in respect of (i) the ABL Facility in an aggregate outstanding principal or committed amount that does not exceed $90,000,000, (ii) any Bank Product Obligations and Hedge Obligations (each as defined in the ABL Credit Agreement as in effect on the date hereof) and (iii) any accrued interest, penalties, premiums, expenses and indemnification obligations under the ABL Facility;

(s) Incremental Equivalent Debt;

(t) Indebtedness (including obligations in respect of letters of credit, bank guaranties, surety bonds, performance bonds or similar instruments with respect to such Indebtedness) incurred by the Borrower and/or any Restricted Subsidiary in respect of workers compensation claims, unemployment insurance (including premiums related thereto), other types of social security, pension obligations, vacation pay, health, disability or other employee benefits;

(u) Indebtedness of the Borrower and/or any Restricted Subsidiary representing (i) deferred compensation to current or former directors, officers, employees, members of management, managers, and consultants of Holdings, Intermediate Holdings, the Borrower and/or any Restricted Subsidiary in the ordinary course of business and (ii) deferred compensation or other similar arrangements in connection with the Transactions, any Permitted Acquisition or any other Investment permitted hereby;

(v) Indebtedness of the Borrower and/or any Restricted Subsidiary to the extent supported by any Letter of Credit (as defined in the ABL Credit Agreement or any equivalent term under the ABL Facility);

(w) Indebtedness under Derivative Transactions that are not entered into for speculative purposes;

(x) Capital Lease obligations arising under any Sale and Lease-Back Transaction permitted under Section 6.07(x); provided, that at the time of incurrence of any such Indebtedness and after giving pro forma effect thereto and the use of proceeds thereof, the aggregate principal amount of Indebtedness then outstanding under this clause (x) shall not exceed $10,000,000; and

(y) without duplication of any other Indebtedness, all premiums (if any), interest (including post-petition interest and payment in kind interest), accretion or amortization of original issue discount, fees, expenses and charges with respect to Indebtedness of the Borrower and/or any Restricted Subsidiary permitted under this Section 6.01.

Section 6.02 Liens. The Borrower shall not, nor shall it permit any of its Restricted Subsidiaries to, create, incur, assume or permit or suffer to exist any Lien on or with respect to any property of any kind owned by it, whether now owned or hereafter acquired, or any income or profits therefrom, except:

(a) Liens securing the Secured Obligations created pursuant to the Loan Documents;

(b) Liens for Taxes which are (i) not then due or (ii) if due, not then required to be paid pursuant to Section 5.03;

(c) statutory Liens (and rights of set-off) of landlords, banks, carriers, warehousemen, mechanics, repairmen, workmen and materialmen, and other Liens imposed by applicable Requirements of Law, in each case incurred in the ordinary course of business (i) for amounts not yet overdue by more than 30 days, (ii) for amounts that are overdue by more than 30 days and that are being contested in good faith by appropriate proceedings, so long as any reserves or other appropriate provisions required by GAAP have been made for any such contested amounts or (iii) with respect to which the failure to make payment would not reasonably be expected to have a Material Adverse Effect;

(d) Liens incurred (i) in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security laws and regulations, (ii) in the ordinary course of business to secure the performance of tenders, statutory obligations, surety, stay, customs 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), (iii) pursuant to pledges and deposits of Cash or Cash Equivalents in the ordinary course of business securing (x) any liability for reimbursement or indemnification obligations of insurance carriers providing property, casualty, liability or other insurance to Holdings, Intermediate Holdings, the Borrower and its subsidiaries or (y) leases or licenses of property otherwise permitted by this Agreement and (iv) to secure obligations in respect of letters of credit, bank guaranties, surety bonds, performance bonds or similar instruments posted with respect to the items described in clauses (i) through (iii) above;

(e) Liens consisting of easements, rights-of-way, restrictions, encroachments, and other minor defects or irregularities in title, in each case which do not, individually or in the aggregate, materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the Borrower and its Restricted Subsidiaries, taken as a whole, or the use of the affected property for its intended purpose;

(f) Liens consisting of any (i) interest or title of a lessor or sub-lessor under any lease of real estate permitted hereunder, (ii) landlord lien permitted by the terms of any lease, (iii) restriction or encumbrance to which the interest or title of such lessor or sub-lessor may be subject or (iv) subordination of the interest of the lessee or sub-lessee under such lease to any restriction or encumbrance referred to in the preceding clause (iii);

(g) Liens solely on any Cash earnest money deposits made by the Borrower and/or any of its Restricted Subsidiaries in connection with any letter of intent or purchase agreement with respect to any Investment permitted hereunder;

(h) purported Liens evidenced by the filing of UCC financing statements or similar filings relating solely to operating leases;

(i) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(j) Liens in connection with any zoning, building or similar Requirement of Law or right reserved to or vested in any Governmental Authority to control or regulate the use of any or dimensions of real property or the structure thereon, including Liens in connection with any condemnation or eminent domain proceeding or compulsory purchase order;

(k) Liens securing Indebtedness permitted pursuant to Section 6.01(m) (solely with respect to the permitted refinancing of (x) Indebtedness permitted pursuant to Sections 6.01(a), (j), (k), and (s) and (y) Indebtedness that is secured in reliance on Section 6.02(s) (without duplication of any amount outstanding thereunder, and which shall continue to constitute utilization of the basket set forth therein)); provided that (i) no such Lien extends to any asset not covered by the Lien securing the Indebtedness that is being refinanced and (ii) if the Lien securing the Indebtedness being refinanced was subject to intercreditor arrangements, then (A) the Lien securing any refinancing Indebtedness in respect thereof shall be subject to intercreditor arrangements that are not materially less favorable to the Secured Parties, taken as a whole, than the intercreditor arrangements governing the Lien securing the Indebtedness that is refinanced or (B) the intercreditor arrangements governing the Lien securing the relevant refinancing Indebtedness shall be set forth in an Acceptable Intercreditor Agreement;

(l) Liens described on Schedule 6.02 and any modification, replacement, refinancing, renewal or extension thereof; provided that (i) no such Lien extends to any additional property other than (A) after-acquired property that is affixed or incorporated into the property covered by such Lien and (B) proceeds and products thereof, accessions thereto and improvements thereon (it being understood that individual financings of the type permitted under Section 6.01(j) provided by any lender may be cross-collateralized to other financings of such type provided by such lender or its affiliates) and (ii) such modification, replacement, refinancing, renewal or extension of the obligations secured or benefited by such Liens, if constituting Indebtedness, is permitted by Section 6.01;

(m) Liens securing Indebtedness permitted pursuant to Section 6.01(j); provided that any such Lien shall encumber only the asset acquired with the proceeds of such Indebtedness and proceeds and products thereof, accessions thereto and improvements thereon (it being understood that individual financings of the type permitted under Section 6.01(j) provided by any lender may be cross-collateralized to other financings of such type provided by such lender or its affiliates);

(n) Liens securing Indebtedness permitted pursuant to Section 6.01(k) on the relevant acquired assets or on the Capital Stock and assets of the relevant newly acquired Restricted Subsidiary; provided that no such Lien (x) extends to or covers any other assets (other than the proceeds or products thereof, accessions or additions thereto and improvements thereon) or (y) was created in contemplation of the applicable acquisition of assets or Capital Stock;

(o) (i) Liens that are contractual rights of setoff or netting relating to (A) the establishment of depositary relations with banks not granted in connection with the issuance of Indebtedness, (B) pooled deposit or sweep accounts of the Borrower and/or any Restricted Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower and/or any Restricted Subsidiary, (C) purchase orders and other agreements entered into with customers of the Borrower and/or any Restricted Subsidiary in the ordinary course of business and (D) commodity trading or other brokerage accounts incurred in the ordinary course of business, (ii) Liens encumbering reasonable customary initial deposits and margin deposits, (iii) bankers Liens and rights and remedies as to Deposit Accounts and (iv) Liens on the proceeds of any Indebtedness incurred in connection with any transaction permitted hereunder, which proceeds have been deposited into an escrow account on customary terms to secure such Indebtedness pending the application of such proceeds to finance such transaction;

(p) Liens securing obligations (other than obligations representing Indebtedness for borrowed money) under operating, reciprocal easement or similar agreements entered into in the ordinary course of business of the Borrower and/or its Restricted Subsidiaries;

(q) Liens on fixed or capital assets subject to any Sale and Lease-back Transaction permitted under Section 6.07(x); provided that (i) such Liens secure only Indebtedness permitted by Section 6.01(x) and obligations relating thereto not constituting Indebtedness and (ii) such Lien shall encumber only the asset acquired with the proceeds of such Indebtedness and proceeds and products thereof, accessions thereto and improvements thereon (it being understood that individual financings of the type permitted under Section 6.01(x) provided by any lender may be cross-collateralized to other financings of such type provided by such lender or its affiliates);

(r) Liens securing Indebtedness incurred pursuant to Sections 6.01(r) and (s), in each case, subject to an Acceptable Intercreditor Agreement;

(s) other Liens on assets securing Indebtedness or other obligations in an aggregate principal amount at any time outstanding not to exceed $15,000,000;

(t) Liens on assets securing judgments, awards, attachments and/or decrees and notices of *lis pendens* and associated rights not constituting an Event of Default under Section 7.01(h);

(u) leases, subleases, licenses or sublicenses granted to others in the ordinary course of business which do not secure any Indebtedness;

(v) Liens on Securities that are the subject of repurchase agreements constituting Investments permitted under Section 6.06 arising out of such repurchase transaction;

(w) Liens securing obligations in respect letters of credit, bank guaranties, surety bonds, performance bonds or similar instruments permitted under Sections 6.01(d), (f), and (t);

(x) Liens arising (i) out of conditional sale, title retention, consignment or similar arrangements for the sale of any asset in the ordinary course of business and permitted by this Agreement or (ii) by operation of law under Article 2 of the UCC (or similar Requirements of Law of any jurisdiction);

(y) Liens (i) in favor of any Loan Party and/or (ii) granted by any non-Loan Party in favor of any Restricted Subsidiary that is not a Loan Party, in the case of each of clauses (i) and (ii), securing intercompany Indebtedness permitted under Section 6.01;

(z) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(aa) Liens on specific items of inventory or other goods and the proceeds thereof securing the relevant Person's obligations in respect of documentary letters of credit or banker's acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or goods;

(bb) [reserved];

(cc) (i) Liens on Capital Stock of joint ventures or Unrestricted Subsidiaries securing capital contributions to, or obligations of, such Persons and (ii) customary rights of first refusal and tag, drag and similar rights in joint venture agreements and agreements with respect to non-Wholly-Owned Subsidiaries;

(dd) Liens on cash, Cash Equivalents or other property arising in connection with the defeasance, discharge or redemption of Indebtedness; and

(ee) Liens securing Indebtedness incurred in reliance on, and subject to the provisions set forth in, Section 6.01(q); provided, that any Lien that is granted in reliance on this clause (ee) on the Collateral and is pari passu or junior to the Lien securing the Secured Obligations shall be subject to an Acceptable Intercreditor Agreement.

Section 6.03 No Further Negative Pledges; Burdensome Agreements. The Borrower shall not, nor shall it permit any of its Restricted Subsidiaries to enter into any agreement prohibiting the creation or assumption of any Lien upon its properties, whether now owned or hereafter acquired, for the benefit of the Secured Parties with respect to the Obligations, except with respect to:

(a) specific property to be sold pursuant to any Disposition permitted by Section 6.07;

(b) restrictions contained in any agreement with respect to Indebtedness permitted by Section 6.01 that is secured by a Permitted Lien, but only if such restrictions apply only to the Person or Persons obligated under such Indebtedness and its or their Restricted Subsidiaries or the property or assets securing such Indebtedness;

(c) restrictions contained in the documentation governing Indebtedness permitted by clauses (j), (o), (q), (r), (s) and/or (x) of Section 6.01 (and clause (m) of Section 6.01 to the extent relating to any refinancing, refunding or replacement of Indebtedness incurred in reliance on clauses (a), (j), (o), (q), (r), (s) and/or (x) of Section 6.01);

(d) restrictions by reason of customary provisions restricting assignments, subletting or other transfers (including the granting of any Lien) contained in leases, subleases, licenses, sublicenses and other agreements entered into in the ordinary course of business (provided that such restrictions are limited to the relevant leases, subleases, licenses, sublicenses or other agreements and/or the property or assets secured by such Liens or the property or assets subject to such leases, subleases, licenses, sublicenses or other agreements, as the case may be);

(e) Permitted Liens and restrictions in the agreements relating thereto that limit the right of the Borrower and/or any Restricted Subsidiary to Dispose of, or encumber the assets subject to such Liens;

(f) provisions limiting the Disposition or distribution of assets or property in joint venture agreements, sale-leaseback agreements, stock sale agreements and other similar agreements, which limitation is applicable only to the assets that are the subject of such agreements (or the Persons the Capital Stock of which is the subject of such agreement);

(g) any encumbrance or restriction assumed in connection with an acquisition of the property or Capital Stock of any Person, so long as such encumbrance or restriction relates solely to the property so acquired (or to the Person or Persons (and its or their subsidiaries) bound thereby) and was not created in connection with or in anticipation of such acquisition;

(h) restrictions imposed by customary provisions in partnership agreements, limited liability company organizational governance documents, joint venture agreements and other similar agreements that restrict the transfer of the assets of, or ownership interests in, the relevant partnership, limited liability company, joint venture or any similar Person;

(i) restrictions on Cash or other deposits imposed by Persons under contracts entered into in the ordinary course of business or for whose benefit such Cash or other deposits exist;

(j) restrictions set forth in documents which exist on the Closing Date;

(k) restrictions contained in documents governing Indebtedness permitted hereunder of any Restricted Subsidiary that is not a Loan Party;

(l) restrictions set forth in any Loan Document, any Hedge Agreement and/or any agreement relating to any Banking Service Obligation; and

(m) other restrictions or encumbrances imposed by any amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing of the contracts, instruments or obligations referred to in clauses (a) through (l) above; provided that no such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing is, in the good faith judgment of the Borrower, may be more restrictive with respect to such encumbrances and other restrictions, taken as a whole, than those in effect prior to the relevant amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

Section 6.04 Restricted Payments; Restricted Debt Payments.

(a) The Borrower shall not pay or make, directly or indirectly, any Restricted Payment, except that:

(i) the Borrower may make Restricted Payments to the extent necessary to permit any Parent Company:

(A) to (i) pay general administrative and operating costs and expenses (including corporate overhead, legal or similar expenses and customary salary, bonus and other benefits payable to officers, employees, members of management, managers, employees and/or consultants of any Parent Company (and/or any Immediate Family Member of any of the foregoing)) and franchise fees, franchise Taxes and similar fees, Taxes and expenses required to maintain the organizational existence of such Parent Company, in each case, which are reasonable and customary and incurred in the ordinary course of business, to the extent attributable to the ownership or operations of Holdings (but excluding, for the avoidance of doubt, the portion of any such amount, if any, that is attributable to the ownership or operations of any subsidiary of Holdings other than Intermediate Holdings, Buyer, the Borrower and/or its subsidiaries), Intermediate Holdings, Buyer, the Borrower and its subsidiaries; provided, that Restricted Payments made pursuant to this Section 6.04(a)(i)(A)(i) shall not exceed $5,000,000 in any Fiscal Year, (ii) pay customary salary or fees payable to directors of any Parent Company (and/or any Immediate Family Member of the foregoing), which is reasonable and customary and incurred in the ordinary course of business, to the extent attributable to the ownership of Intermediate Holdings, Buyer, the Borrower and/or its subsidiaries, subject, in the case of salary or fees in respect of directors appointed by, and representatives of, the Sponsor, to the aggregate cap set forth in clause (a) of the definition of "Sponsor Fees", (iii) pay any reasonable and customary indemnification claims made by directors, officers, members of management, managers, employees or consultants of any Parent Company, in each case, to the extent attributable to the ownership or operations of Holdings (but excluding, for the avoidance of doubt, the portion of any such amount, if any, that is attributable to the ownership or operations of any subsidiary of Holdings other than Intermediate Holdings, Buyer, the Borrower and/or its subsidiaries), Intermediate Holdings, Buyer, the Borrower and its subsidiaries; and (iv) pay costs and expenses, including any public company costs, associated with the compliance by Holdings with the requirements and/or regulations applicable to public companies, including, without limitation, the "Sarbanes-Oxley" legislation and related regulatory rules and regulations promulgated thereunder;

(B) to pay Taxes due and payable by such Parent Company to any taxing authority and that are attributable to the income or operation of Holdings, Intermediate Holdings, Buyer, the Borrower or its subsidiaries, including any consolidated, combined or similar income tax liabilities attributable to taxable income of Holdings, Intermediate Holdings, Buyer, the Borrower and its subsidiaries; provided that the amount permitted under this subclause (B) relating to Taxes that are attributable to the taxable income of Unrestricted Subsidiaries in any period shall be limited to the amount of dividends and other distributions actually made by such Unrestricted Subsidiaries to any Restricted Subsidiary for such purpose;

(C) to pay audit and other accounting and reporting expenses of such Parent Company to the extent attributable to Holdings (but excluding, for the avoidance of doubt, the portion of any such expenses, if any, attributable to the ownership or operations of any subsidiary of Holdings other than Intermediate Holdings, Buyer, the Borrower and/or its subsidiaries), Intermediate Holdings, Buyer, the Borrower and its subsidiaries;

(D) for the payment of insurance premiums to the extent attributable to Holdings (but excluding, for the avoidance of doubt, the portion of any such premiums, if any, attributable to the ownership or operations of any subsidiary of Holdings other than Intermediate Holdings, Buyer, the Borrower and/or its subsidiaries), Intermediate Holdings, Buyer, the Borrower and its subsidiaries; and

(E) to finance any Investment permitted under Section 6.06 (provided that (x) any Restricted Payment under this clause (a)(i)(E) shall be made substantially concurrently with the closing of such Investment and (y) the relevant Parent Company shall, promptly following the closing thereof, cause (I) all property acquired to be contributed to the Borrower or one or more of its Restricted Subsidiaries, or (II) the merger, consolidation or amalgamation of the Person formed or acquired into the Borrower or one or more of its Restricted Subsidiaries, in order to consummate such Investment in compliance with the applicable requirements of Section 6.06 as if undertaken as a direct Investment by the Borrower or the relevant Restricted Subsidiary; provided further, any property received by the Borrower or any Restricted Subsidiary in connection with such transaction shall only increase the Available Amount to the extent the fair market value of such property (as determined in good faith by the board of directors of the Borrower) exceeds the aggregate amount of Restricted Payments made pursuant to this clause (a)(i)(E);

(ii) the Borrower may (or may make Restricted Payments to allow any Parent Company to) repurchase, redeem or otherwise acquire or retire for value the Capital Stock of any Parent Company or any subsidiary held by any future, present or former employee, director, member of management, officer or consultant (or any Affiliate or Immediate Family Member thereof) of any Parent Company, the Borrower or any Restricted Subsidiary of the Borrower:

(A) with Cash and Cash Equivalents (and including, to the extent constituting a Restricted Payment, amounts paid in respect of promissory notes issued to evidence any obligation to repurchase, redeem, retire or otherwise acquire or retire for value the Capital Stock of any Parent Company or any Restricted Subsidiary held by any future, present or former employee, director, member of management, officer or consultant (or any Affiliate or Immediate Family Member thereof) of any Parent Company, the Borrower or any Subsidiary of the Borrower); *provided*, that at the time any such Restricted Payment is made and after giving pro forma effect thereto, the aggregate amount of Restricted Payments made as of such date pursuant to this Section 6.04(a)(ii)(A) shall not exceed $5,000,000 in the aggregate;

(B) with the proceeds of any sale or issuance of the Capital Stock of the Borrower or any Parent Company (to the extent such proceeds are contributed in respect of Qualified Capital Stock to the Borrower or any Restricted Subsidiary), but only to the extent such proceeds have not otherwise been applied to increase the Available Amount or Available Excluded Contribution Amount, to make Restricted Payments or Restricted Debt Payments hereunder; or

(C) with the net proceeds of any key-man life insurance policies;

(iii) the Borrower may make additional Restricted Payments in an amount not to exceed (A) the portion, if any, of the Available Amount on such date that the Borrower elects to apply to this clause (iii)(A) and/or (B) the portion, if any, of the Available Excluded Contribution Amount on such date that the Borrower elects to apply to this clause (iii)(B);

(iv) the Borrower may make Restricted Payments (i) to any Parent Company to enable such Parent Company to make Cash payments in lieu of the issuance of fractional shares in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Capital Stock of such Parent Company and (ii) consisting of (A) payments made or expected to be made in respect of withholding or similar Taxes payable by any future, present or former officers, directors, employees, members of management, managers or consultants of the Borrower, any Restricted Subsidiary or any Parent Company or any of their respective Immediate Family Members and/or (B) repurchases of Capital Stock in consideration of the payments described in sub-clause (A) above;

(v) the Borrower may make Restricted Payments to repurchase (or make Restricted Payments to any Parent Company to enable it to repurchase) Capital Stock upon the exercise of warrants, options or other securities convertible into or exchangeable for Capital Stock if such Capital Stock represents all or a portion of the exercise price of such warrants, options or other securities convertible into or exchangeable for Capital Stock as part of a "cashless" exercise;

(vi) the Borrower may make Restricted Payments, the proceeds of which are applied on the Closing Date, solely to effect the consummation of, the Transactions;

(vii) to the extent constituting a Restricted Payment, the Borrower may consummate any transaction permitted by Section 6.06 (other than Sections 6.06(i) and (s)), Section 6.07 (other than Section 6.07(g)) and Section 6.08 (other than Section 6.08(d));

(viii) other Restricted Payments; *provided*, that (x) no Event of Default has occurred and is continuing or would result therefrom and (y) at the time any such Restricted Payment is made and after giving pro forma effect thereto, the aggregate amount of Restricted Payments made as of such date pursuant to this Section 6.04(a)(viii) shall not exceed $5,000,000; and

(ix) any other Restricted Payment; provided that after giving effect to such Restricted Payment, (x) no Event of Default has occurred and is continuing or would result therefrom and (y) on a Pro Forma Basis, the Total Leverage Ratio shall not exceed 2.75:1.00.

(b) The Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to, make any payment in Cash on or in respect of principal of or interest on any (x) Junior Lien Indebtedness and (y) Junior Indebtedness (the Indebtedness described in clauses (x) and (y), the "Restricted Debt"), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any Restricted Debt prior to the scheduled maturity (collectively, "Restricted Debt Payments"), except:

(i) any purchase, defeasance, redemption, repurchase, repayment or other acquisition or retirement thereof made by exchange for, or out of the proceeds of, Refinancing Indebtedness permitted to be incurred pursuant to Section 6.01(m);

(ii) payments of regularly scheduled interest and payments of fees, expenses and indemnification obligations as and when due (other than payments with respect to Junior Indebtedness that are prohibited by the subordination provisions thereof);

(iii) (A) Restricted Debt Payments in exchange for, or with proceeds of any issuance of, Qualified Capital Stock of the Borrower and/or any capital contribution in respect of Qualified Capital Stock of the Borrower, but only to the extent such proceeds have not otherwise been applied to increase the Available Amount or Available Excluded Contribution Amount, to make Restricted Payments or Restricted Debt Payments hereunder, (B) Restricted Debt Payments as a result of the conversion of all or any portion of any Restricted Debt into Qualified Capital Stock of the Borrower or any Parent Company and (C) to the extent constituting a Restricted Debt Payment, payment-in-kind interest with respect to any Restricted Debt that is permitted under Section 6.01;

(iv) Restricted Debt Payments in an aggregate amount not to exceed (A) the portion, if any, of the Available Amount on such date that the Borrower elects to apply to this clause (iv)(A) and (B) the portion, if any, of the Available Excluded Contribution Amount on such date that the Borrower elects to apply to this clause (iv)(B);

(v) customary AHYDO Payments;

(vi) other Restricted Debt Payments; *provided*, that (x) no Event of Default has occurred and is continuing or would result therefrom and (y) at the time any such Restricted Debt Payment is made and after giving pro forma effect thereto, the aggregate amount of Restricted Debt Payments made as of such date pursuant to this Section 6.04(b)(vi) shall not exceed $5,000,000; and

(vii) any other Restricted Debt Payments; provided that (x) no Event of Default has occurred and is continuing or would result therefrom and (y) on a Pro Forma Basis, the Total Leverage Ratio shall not exceed 2.75:1.00.

Section 6.05 Restrictions on Subsidiary Distributions. Except as provided herein or in any other Loan Document, the ABL Facility, any document with respect to any Incremental Equivalent Debt, and/or in agreements with respect to refinancings, renewals or replacements of such Indebtedness that are permitted by Section 6.01, the Borrower shall not, nor shall it permit any of its Restricted Subsidiaries to, enter into or cause to exist any agreement restricting the payment of dividends or other distributions or the making of cash loans or advances by any Restricted Subsidiary to any Loan Party, except restrictions:

(a) set forth in any agreement evidencing (i) Indebtedness of a Restricted Subsidiary that is not a Loan Party permitted by Section 6.01, (ii) Indebtedness permitted by Section 6.01 that is secured by a Permitted Lien if the relevant restriction applies only to the Person obligated under such Indebtedness and its Restricted Subsidiaries or the property or assets intended to secure such Indebtedness and (iii) Indebtedness permitted pursuant to clauses (j), (m) (as it relates to Indebtedness in respect of clauses (a), (j), (o), (p), (q), (s) and/or (x) of Section 6.01), (o), (q), (s) and/or (x) of Section 6.01;

(b) arising under customary provisions restricting assignments, subletting or other transfers (including the granting of any Lien) contained in leases, subleases, licenses, sublicenses, joint venture agreements and similar agreements entered into in the ordinary course of business;

(c) that are or were created by virtue of any Lien granted upon, transfer of, agreement to transfer or grant of, any option or right with respect to any assets or Capital Stock not otherwise prohibited under this Agreement;

(d) that are assumed in connection with any acquisition of property or the Capital Stock of any Person, so long as the relevant encumbrance or restriction relates solely to the Person and its subsidiaries (including the Capital Stock of the relevant Person or Persons) and/or property so acquired and was not created in connection with or in anticipation of such acquisition;

(e) set forth in any agreement for any Disposition of any Restricted Subsidiary (or all or substantially all of the property and/or assets thereof) that restricts the payment of dividends or other distributions or the making of cash loans or advances by such Restricted Subsidiary pending such Disposition;

(f) set forth in provisions in agreements or instruments which prohibit the payment of dividends or the making of other distributions with respect to any class of Capital Stock of a Person other than on a pro rata basis;

(g) imposed by customary provisions in partnership agreements, limited liability company organizational governance documents, joint venture agreements and other similar agreements;

(h) on Cash, other deposits or net worth or similar restrictions imposed by any Person under any contract entered into in the ordinary course of business or for whose benefit such Cash, other deposits or net worth or similar restrictions exist;

(i) set forth in documents which exist on the Closing Date;

(j) arising pursuant to an agreement or instrument relating to any Indebtedness permitted to be incurred after the Closing Date if such restrictions, taken as a whole, are not materially less favorable to the Lenders than the restrictions contained in this Agreement, taken as a whole (as determined in good faith by the Borrower);

(k) arising under or as a result of applicable Requirements of Law or the terms of any license, authorization, concession or permit;

(l) arising in any Hedge Agreement and/or any agreement relating to any Banking Services Obligation and/or Banking Services Obligation (as defined in the ABL Credit Agreement (or any equivalent term under the ABL Facility));

(m) relating to any asset (or all of the assets) of and/or the Capital Stock of the Borrower and/or any Restricted Subsidiary which is imposed pursuant to an agreement entered into in connection with any Disposition of such asset (or assets) and/or all or a portion of the Capital Stock of the relevant Person that is permitted or not restricted by this Agreement;

(n) set forth in any agreement relating to any Permitted Lien that limits the right of the Borrower or any Restricted Subsidiary to Dispose of or encumber the assets subject thereto; and/or

(o) imposed by any amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing of any contract, instrument or obligation referred to in clauses (a) through (n) above; provided that such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing is, in the good faith judgment of the Borrower, no more restrictive with respect to such restrictions, taken as a whole, than those in existence prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

Section 6.06 Investments. The Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to, make or own any Investment in any other Person except:

(a) Cash or Investments that were Cash Equivalents at the time made;

(b) (i) Investments existing on the Closing Date in the Borrower or in any subsidiary, (ii) Investments made after the Closing Date among the Borrower and/or one or more Restricted Subsidiaries that are Loan Parties, (iii) Investments made after the Closing Date by any Loan Party in Holdings, Intermediate Holdings and/or any Restricted Subsidiary that is not a Loan Party, together with Permitted Acquisitions to the extent permitted by clause (b)(i) of the definition thereof and Investments made in reliance on Section 6.06(p), in an aggregate outstanding amount not to exceed the Non-Loan Party Investment Cap, (iv) Investments made by any Restricted Subsidiary that is not a Loan Party in any Loan Party and/or any other Restricted Subsidiary that is not a Loan Party and (v) Investments made by any Loan Party and/or any Restricted Subsidiary that is not a Loan Party in the form of any contribution or Disposition of the Capital Stock of any Person that is not a Loan Party;

(c) Investments (i) constituting deposits, prepayments and/or other credits to suppliers, (ii) made in connection with obtaining, maintaining or renewing client and customer contracts and/or (iii) in the form of advances made to distributors, suppliers, licensors and licensees, in each case, in the ordinary course of business or to the extent necessary to maintain the ordinary course of supplies to the Borrower or any Restricted Subsidiary;

(d) (i) Permitted Acquisitions and (ii) any Investment in any Restricted Subsidiary that is not a Loan Party in an amount required to permit such Restricted Subsidiary to consummate a Permitted Acquisition (in compliance, if applicable, with any cap on Investments in non-Loan Parties that is set forth in the relevant carve-out from this Section 6.06), which amount is actually applied by such Restricted Subsidiary to consummate such Permitted Acquisition;

(e) Investments (i) existing on, or contractually committed to as of, the Closing Date and described on Schedule 6.06 and (ii) any modification, replacement, renewal or extension of any Investment described in clause (i) above so long as no such modification, renewal or extension thereof increases the amount of such Investment except by the terms thereof or as otherwise permitted by this Section 6.06;

(f) Investments received in lieu of Cash in connection with any Disposition permitted by Section 6.07;

(g) loans or advances to present or former employees, directors, members of management, officers, managers or consultants or independent contractors (or their respective Immediate Family Members) of any Parent Company, the Borrower, its subsidiaries and/or any joint venture to the extent permitted by Requirements of Law, in connection with such Person's purchase of Capital Stock of any Parent Company, either (i) in an aggregate principal amount not to exceed at any one time outstanding the greater of $5,000,000 and 6% of Consolidated Adjusted EBITDA for the most recently ended Test Period or (ii) so long as the proceeds of such loan or advance are substantially contemporaneously contributed to the Borrower for the purchase of Capital Stock;

(h) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business;

(i) Investments consisting of (or resulting from) Indebtedness permitted under Section 6.01 (other than Indebtedness permitted under Sections 6.01(b) and (g)), Permitted Liens, Restricted Payments permitted under Section 6.04 (other than Section 6.04(a)(vii)), Restricted Debt Payments permitted by Section 6.04 and mergers, consolidations, amalgamations, liquidations, windings up, dissolutions or Dispositions permitted by Section 6.07 (other than Section 6.07(a) (if made in reliance on sub-clause (ii)(y) of the proviso thereto), Section 6.07(b) (if made in reliance on clause (ii) therein), Section 6.07(c)(ii) (if made in reliance on clause (B) therein) and Section 6.07(g));

(j) Investments in the ordinary course of business consisting of endorsements for collection or deposit and customary trade arrangements with customers;

(k) Investments (including debt obligations and Capital Stock) received (i) in connection with the bankruptcy, restructuring or reorganization of any Person, (ii) in settlement of delinquent obligations of, or other disputes with, customers, suppliers and other account debtors arising in the ordinary course of business, (iii) upon foreclosure with respect to any secured Investment or other transfer of title with respect to any secured Investment and/or (iv) as a result of the settlement, compromise, resolution of litigation, arbitration or other disputes;

(l) loans and advances of (x) payroll payments or other compensation and (y) moving, entertainment and travel expenses, drawing accounts and similar expenditures, in each case under this clause (l) to present or former employees, directors, members of management, officers, managers or consultants of any Parent Company (to the extent such payments or other compensation relate to services provided to such Parent Company (but excluding, for the avoidance of doubt, the portion of any such amount, if any, attributable to the ownership or operations of any subsidiary of any Parent Company other than the Borrower and/or its subsidiaries)), the Borrower and/or any subsidiary of the Borrower in the ordinary course of business;

(m) Investments to the extent that payment therefor is made solely with Capital Stock of any Parent Company or Qualified Capital Stock of the Borrower or any Restricted Subsidiary, in each case, to the extent not resulting in a Change of Control;

(n) (i) Investments of any Restricted Subsidiary acquired after the Closing Date, or of any Person acquired by, or merged into or consolidated or amalgamated with, the Borrower or any Restricted Subsidiary after the Closing Date, in each case as part of an Investment otherwise permitted by this Section 6.06 to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger, amalgamation or consolidation and were in existence on the date of the relevant acquisition, merger, amalgamation or consolidation and (ii) any modification, replacement, renewal or extension of any Investment permitted under clause (i) of this Section 6.06(n) so long as no such modification, replacement, renewal or extension thereof increases the amount of such Investment except as otherwise permitted by this Section 6.06;

(o) Investments made in connection with the Transactions;

(p) Investments made after the Closing Date by the Borrower and/or any of its Restricted Subsidiaries in an aggregate amount at any time outstanding not to exceed, together with Investments made in reliance on Section 6.06(b)(iii) and Permitted Acquisitions to the extent permitted by clause (b)(i) of the definition thereof, the greater of $20,000,000 and 25% of Consolidated Adjusted EBITDA for the most recently ended Test Period;

(q) Investments made after the Closing Date by the Borrower and/or any of its Restricted Subsidiaries in an aggregate outstanding amount not to exceed (i) the portion, if any, of the Available Amount on such date that the Borrower elects to apply to this clause (q)(i) and/or (ii) the portion, if any, of the Available Excluded Contribution Amount on such date that the Borrower elects to apply to this clause (q)(ii);

(r) to the extent not constituting Indebtedness, (i) Guarantees of leases (other than Capital Leases) or of other obligations and (ii) Guarantees of the lease obligations of suppliers, customers, franchisees and licensees of the Borrower and/or its Restricted Subsidiaries, in each case, in the ordinary course of business;

(s) Investments in any Parent Company in amounts and for purposes for which Restricted Payments to such Parent Company are permitted under Section 6.04(a); provided that any Investment made as provided above in lieu of any such Restricted Payment shall reduce availability under the applicable Restricted Payment basket under Section 6.04(a);

(t) Investments under any Derivative Transaction of the type permitted under Section 6.01(y);

(u) Investments (i) in joint ventures and Unrestricted Subsidiaries or (ii) in any Restricted Subsidiary to enable such Restricted Subsidiary to make Investments in joint ventures and Unrestricted Subsidiaries or (iii) in joint ventures or non-Wholly-Owned Subsidiaries as required by, or made pursuant to, customary buy/sell arrangements between the joint venture parties set forth in joint venture agreements and similar binding arrangements entered into in the ordinary course of business, in the case of this clause (u), in an aggregate outstanding amount not to exceed $5,000,000;

(v) [reserved];

(w) unfunded pension fund and other employee benefit plan obligations and liabilities to the extent that the same are permitted to remain unfunded under applicable Requirements of Law;

(x) Investments in Holdings, Intermediate Holdings, the Borrower, any subsidiary and/or any joint venture in connection with intercompany cash management arrangements and related activities in the ordinary course of business; and

(y) any other Investments; provided that after giving effect to such Investment, (x) no Event of Default has occurred and is continuing or would result therefrom and (y) on a Pro Forma Basis, the Total Leverage Ratio shall not exceed 2.75:1.00.

Section 6.07 Fundamental Changes; Disposition of Assets. The Borrower shall not, nor shall the Borrower permit any of its Restricted Subsidiaries to, enter into any transaction of merger, consolidation or amalgamation or liquidate, wind up or dissolve themselves (or suffer any liquidation or dissolution), or make any Disposition of any assets having a fair market value in excess of $2,500,000, in a single transaction or in a series of related transactions, except:

(a) any Restricted Subsidiary may be merged, consolidated or amalgamated with or into the Borrower or another Restricted Subsidiary; provided that (i) in the case of any such merger, consolidation or amalgamation with or into the Borrower, (A) the Borrower shall be the continuing or surviving Person or (B) if the Person formed by or surviving any such merger, consolidation or amalgamation is not the Borrower (any such Person, the "Successor Borrower"), (w) the Successor Borrower shall provide the documentation and other information reasonably requested in writing by the Lenders that they reasonably determine is required by regulatory authorities under applicable "know your customer" and anti-money-laundering rules and regulations, including the PATRIOT Act, and including, with respect to any Successor Borrower that qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, a Beneficial Ownership Certification in relation to such Borrower, in each case at least three Business Days prior to the effectiveness of such merger, consolidation or amalgamation (or such shorter period as the Administrative Agent shall otherwise agree), (x) the Successor Borrower shall be an entity organized or existing under the laws of the U.S., any state thereof or the District of Columbia, (y) the Successor Borrower shall expressly assume the Obligations of the Borrower in a manner reasonably satisfactory to the Administrative Agent and (z) except as the Administrative Agent may otherwise agree, each Guarantor, unless it is the other party to such merger, consolidation or amalgamation, shall have executed and delivered a reaffirmation agreement with respect to its obligations under the Loan Guaranty and the other Loan Documents; it being understood that if the foregoing conditions under clauses (w) through (z) are satisfied, the Successor Borrower will succeed to, and be substituted for, the Borrower under this Agreement and the other Loan Documents, and (ii) in the case of any such merger, consolidation or amalgamation with or into any Subsidiary Guarantor or sale of assets by any Subsidiary Guarantor, either (x) such Subsidiary Guarantor shall be the continuing or surviving Person or the continuing or surviving Person shall expressly assume the obligations of the Subsidiary Guarantor in a manner reasonably satisfactory to the Administrative Agent or (y) the relevant transaction shall be treated as an Investment and shall comply with Section 6.06;

(b) Dispositions (including of Capital Stock) among the Borrower and/or any Restricted Subsidiary (upon voluntary liquidation or otherwise); provided that any such Disposition made by any Loan Party to a Person that is not a Loan Party shall be (i) for fair market value (as reasonably determined by such Person) with at least 75% of the consideration for such Disposition consisting of Cash or Cash Equivalents at the time of such Disposition or (ii) treated as an Investment and otherwise made in compliance with Section 6.06 (other than in reliance on clause (j) thereof);

(c) (i) the liquidation or dissolution of any Restricted Subsidiary if the Borrower reasonably determines in good faith that such liquidation, dissolution is in the best interests of the Borrower, is not materially disadvantageous to the Lenders and the Borrower or any Restricted Subsidiary receives any assets of the relevant dissolved or liquidated Restricted Subsidiary; provided that in the case of any liquidation or dissolution of any Loan Party that results in a distribution of assets to any Restricted Subsidiary that is not a Loan Party, such distribution shall be treated as an Investment and shall comply with Section 6.06 (other than in reliance on clause (j) thereof); (ii) any merger, amalgamation, dissolution, liquidation or consolidation, the purpose of which is to effect (A) any Disposition otherwise permitted under this Section 6.07 (other than clause (a), clause (b) or this clause (c)) or (B) any Investment permitted under Section 6.06 (other than in reliance on clause (ii) thereof); and (iii) the conversion of the Borrower or any Restricted Subsidiary into another form of entity so long as such conversion does not adversely affect the value of the Loan Guaranty or Collateral, if any;

(d) the leasing or subleasing of real property in the ordinary course of business;

(e) Dispositions in the ordinary course of business of surplus, obsolete, used or worn out property or other property that, in the reasonable judgment of the Borrower, is (i) no longer used or useful in its business (or in the business of any Restricted Subsidiary) or (ii) otherwise economically impracticable to maintain;

(f) Dispositions of Cash and/or Cash Equivalents and/or other assets that were Cash Equivalents when the relevant original Investment was made;

(g) Dispositions, mergers, amalgamations, consolidations or conveyances that constitute Investments permitted pursuant to Section 6.06 (other than Section 6.06(i), Permitted Liens and Restricted Payments permitted by Section 6.04(a) (other than Section 6.04(a)(vii));

(h) Dispositions for fair market value (as determined in good faith by the Borrower); provided that with respect to any such Disposition with a purchase price in excess of the greater of $10,000,000 and 12.5% of Consolidated Adjusted EBITDA for the most recently ended Test Period, at least 75% of the consideration for such Disposition shall consist of Cash or Cash Equivalents (provided that for purposes of the 75% Cash consideration requirement, (x) the amount of any Indebtedness or other liabilities (other than Indebtedness or other liabilities that are subordinated to the Obligations or that are owed to the Borrower or any Restricted Subsidiary) of the Borrower and any Restricted Subsidiary (as shown on such Person's most recent balance sheet or statement of financial position (or in the notes thereto)) that are assumed by the transferee of any such assets and for which the Borrower and/or its applicable Restricted Subsidiary have been validly released by all relevant creditors in writing, (y) any Securities received by the Borrower or any Restricted Subsidiary from such transferee that are converted by such Person into Cash or Cash Equivalents (to the extent of the Cash or Cash Equivalents received) within 180 days following the closing of the applicable Disposition and (z) any Designated Non-Cash Consideration received in respect of such Disposition having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this clause (z) that is at that time outstanding not in excess of the greater of $20,000,000 and 25.0% of Consolidated Adjusted EBITDA for the most recently ended Test Period shall be deemed to be Cash); provided, further, that (x) immediately prior to and after giving effect to such Disposition, as determined on the date on which the agreement governing such Disposition is executed, no Event of Default exists and (y) the Net Proceeds of such Disposition shall be applied and/or reinvested as (and to the extent) required by Section 2.08(b)(ii);

(i) to the extent that (i) the relevant property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of the relevant Disposition are promptly applied to the purchase price of such replacement property;

(j) Dispositions of Investments in joint ventures or any subsidiary that is not a Wholly-Owned Subsidiary to the extent required by, or made pursuant to, buy/sell arrangements between joint venture or similar parties set forth in the relevant joint venture arrangements and/or similar binding arrangements;

(k) Dispositions of accounts receivable in the ordinary course of business (including any discounting or forgiveness thereof) or in connection with the collection or compromise thereof;

(l) Dispositions and/or terminations of leases, subleases, licenses or sublicenses (including the provision of software under any open source license), which do not materially interfere with the business of the Borrower and its Restricted Subsidiaries;

(m) (i) any termination of any lease in the ordinary course of business, (ii) any expiration of any option agreement in respect of real or personal property and (iii) any surrender or waiver of contractual rights or the settlement, release or surrender of contractual rights or litigation claims (including in tort);

(n) Dispositions of property subject to foreclosure, casualty, eminent domain or condemnation proceedings (including in lieu thereof or any similar proceeding);

(o) [reserved];

(p) exchanges or swaps, including transactions covered by Section 1031 of the Code (or any comparable provision of any foreign jurisdiction), of assets so long as any such exchange or swap is made for fair value (as reasonably determined by the Borrower) for like assets; provided that upon the consummation of any such exchange or swap by any Loan Party, to the extent the assets received do not constitute an Excluded Asset, the Administrative Agent has a perfected Lien with the same priority as the Lien held on the Real Estate Assets so exchanged or swapped;

(q) other Dispositions; provided that the aggregate for fair market value (as determined in good faith by the Borrower) of all assets subject to such Dispositions since the Closing Date shall not exceed $10,000,000;

(r) (i) non-exclusive licensing arrangements involving any IP Rights of the Borrower or any Restricted Subsidiary in the ordinary course of business and (ii) Dispositions, abandonments, cancellations or lapses of IP Rights, or issuances or registrations, or applications for issuances or registrations, of IP Rights, in the ordinary course of business, which, in the reasonable good faith determination of the Borrower, are no longer used, useful or economical to maintain in light of its use;

(s) terminations or unwinds of Derivative Transactions;

(t) Dispositions of Capital Stock of, or sales of Indebtedness or other Securities of, Unrestricted Subsidiaries;

(u) any merger, consolidation, Disposition or conveyance the sole purpose of which is to reincorporate or reorganize (i) any Domestic Subsidiary in another jurisdiction in the U.S. and/or (ii) any Foreign Subsidiary in the U.S. or any other jurisdiction;

(v) Dispositions contemplated on the Closing Date and described on Schedule 6.07(v);

(w) Dispositions of letters of credit and/or bank guarantees (and/or the rights thereunder) to banks or other financial institutions in the ordinary course of business in exchange for Cash and/or Cash Equivalents; and

(x) Sale and Lease-Back Transactions so long as the aggregate fair market value (as determined in good faith by the Borrower) of the assets sold subject to all Sale and Lease-Back Transactions under this clause (x) shall not exceed $10,000,000; provided, that the Net Proceeds of such Sale and Lease-Back Transaction shall be applied pursuant to Section 2.08(b)(ii) (it being understood that any Net Proceeds so received shall not be permitted to be reinvested).

To the extent any Collateral is Disposed of as expressly permitted by this Section 6.07 to any Person other than a Loan Party, such Collateral shall automatically be sold free and clear of the Liens created by the Loan Documents, and the Administrative Agent shall be authorized to take, and shall take, any actions deemed appropriate in order to effect the foregoing. Notwithstanding anything herein to the contrary, the Borrower shall not itself enter into any division or allocation of assets to a series of limited liability companies under any applicable law.

Section 6.08 Transactions with Affiliates. The Borrower shall not, nor shall it permit any of its Restricted Subsidiaries to, enter into any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) involving payment in excess of $5,000,000 with any of their respective Affiliates on terms that are less favorable to the Borrower or such Restricted Subsidiary, as the case may be (as reasonably determined by the Borrower), than those that might be obtained at the time in a comparable arm's-length transaction from a Person who is not an Affiliate; provided that the foregoing restriction shall not apply to:

(a) any transaction between or among the Borrower and/or one or more Restricted Subsidiaries (or any entity that becomes a Restricted Subsidiary as a result of such transaction) to the extent permitted or not restricted by this Agreement;

(b) any issuance, sale or grant of securities or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of employment arrangements, stock options and stock ownership plans approved by the board of directors (or equivalent governing body) of any Parent Company or of the Borrower or any Restricted Subsidiary;

(c) (i) any collective bargaining agreement, employment agreement, severance agreement or compensatory (including profit sharing) arrangement entered into by the Borrower or any of its Restricted Subsidiaries with their respective current or former officers, directors, members of management, managers, employees, consultants or independent contractors or those of any Parent Company, (ii) any subscription agreement or similar agreement pertaining to the repurchase of Capital Stock pursuant to put/call rights or similar rights with current or former officers, directors, members of management, managers, employees, consultants or independent contractors and (iii) transactions pursuant to any employee compensation, benefit plan, stock option plan or arrangement, any health, disability or similar insurance plan which covers current or former officers, directors, members of management, managers, employees, consultants or independent contractors or any employment contract or arrangement;

(d) (i) transactions permitted by Sections 6.01(c), (l) and (u), 6.04 and 6.06(g), (l), (n), (p) and (u) (to the extent the relevant transaction is an Investment of the type described in Section 6.06(g)), (s), (u), (v), (w) and (x) and (ii) issuances of Capital Stock and issuances or incurrences of Indebtedness not restricted by this Agreement;

(e) transactions in existence on the Closing Date and described on Schedule 6.08 and any amendment, modification or extension thereof to the extent such amendment, modification or extension, taken as a whole, is not adverse to the Lenders in any material respect;

(f) the payment of all indemnification obligations and expenses owed to any Management Investor and any of their respective directors, officers, members of management, managers, employees and consultants whether currently due or paid in respect of accruals from prior periods;

(g) the Transactions, including the payment of Transaction Costs and other payments required under the Acquisition Agreement;

(h) Guarantees permitted by Section 6.01 or Section 6.06;

(i) the payment of customary fees (other than Sponsor Fees) and reasonable out-of-pocket costs to, and indemnities provided on behalf of, former and current members of the board of directors (or similar governing body), officers, employees, members of management, managers, consultants and independent contractors of Holdings, Intermediate Holdings, Buyer, the Borrower and/or any of its Restricted Subsidiaries, and in the case of payments to such Person in such capacity on behalf of any Parent Company, to the extent attributable to the operations of Holdings, Intermediate Holdings, Buyer, the Borrower or its subsidiaries;

(j) transactions with customers, clients, suppliers, joint ventures, purchasers or sellers of goods or services or providers of employees or other labor entered into in the ordinary course of business, which are (i) fair to the Borrower and/or its applicable Restricted Subsidiaries in the good faith determination of the board of directors (or similar governing body) of the Borrower or the senior management thereof or (ii) on terms at least as favorable to the Borrower and/or its applicable Restricted Subsidiary as might reasonably be obtained from a Person other than an Affiliate;

(k) the payment of reasonable out-of-pocket costs and expenses related to registration rights and customary indemnities provided to shareholders under any shareholder agreement;

(l) any purchase by Holdings or Intermediate Holdings of the Capital Stock of (or contribution to the equity capital of) the Borrower;

(m) any transaction in respect of which the Borrower delivers to the Administrative Agent a letter addressed to the board of directors (or equivalent governing body) of the Borrower from an accounting, appraisal or investment banking firm of nationally recognized standing stating that such transaction is on terms that are no less favorable to the Borrower or the applicable Restricted Subsidiary than might be obtained at the time in a comparable arm's length transaction from a Person who is not an Affiliate; and

(n) any issuance, sale or grant of Qualified Capital Stock or other payments, awards or grants in Cash, Qualified Capital Stock or otherwise pursuant to, or the funding of employment arrangements, stock options and stock ownership plans approved by a majority of the members of the board of directors (or similar governing body) or a majority of the disinterested members of the board of directors (or similar governing body) of the Borrower or the applicable Restricted Subsidiary in good faith; and

(o) payments of Sponsor Fees; provided that if an Event of Default under Section 7.01(a) or, with respect to the Borrower, Section 7.01(g), has occurred and is continuing, any Sponsor Fee payable in Cash or Cash Equivalents thereunder shall accrue but shall not be paid until such Event of Default is cured or waived.

Section 6.09 Amendments or Waivers of Organizational Documents. The Borrower shall not, nor shall it permit any Subsidiary Guarantor to, amend or modify their respective Organizational Documents, in each case in a manner that is materially adverse to the Lenders (in their capacities as such) without obtaining the prior written consent of the Administrative Agent.

Section 6.10 Amendments of or Waivers with Respect to Restricted Debt. The Borrower shall not, nor shall it permit any of its Restricted Subsidiaries to, amend or otherwise modify the terms of any Restricted Debt (or the documentation governing any Restricted Debt) (a) if the effect of such amendment or modification, together with all other amendments or modifications made, is materially adverse to the interests of the Lenders (in their capacities as such) or (b) in violation of any intercreditor agreement related to such debt entered into with the Administrative Agent or the subordination terms set forth in the definitive documentation governing any Restricted Debt.

Section 6.11 Permitted Activities of Holdings and Intermediate Holdings. Neither Holdings, Intermediate Holdings nor Buyer shall:

(a) incur any Indebtedness for borrowed money other than the Secured Obligations and other Guarantees of Indebtedness or other obligations of the Borrower and/or any Restricted Subsidiary that are otherwise permitted hereunder;

(b) create or suffer to exist any Lien on any asset now owned or hereafter acquired by it other than (i) the Liens created under the Collateral Documents and, subject to an Acceptable Intercreditor Agreement, the collateral documents related to the ABL Facility, to which it is a party, (ii) any other Lien created in connection with the Transactions, (iii) Permitted Liens on the Collateral that are secured on a pari passu or junior basis with the Secured Obligations, so long as such Permitted Liens secure Guarantees permitted under clause (a) above and the underlying Indebtedness subject to such Guarantee is permitted to be secured on the same basis pursuant to Section 6.02 and (iv) Liens of the type permitted under Section 6.02 (other than in respect of debt for borrowed money);

(c) engage in any business activity or own any material assets other than (i) holding the Capital Stock of any of its direct or indirect subsidiaries; (ii) performing its obligations under the Loan Documents, the ABL Facility, other Indebtedness, Liens (including the granting of Liens) and Guarantees permitted hereunder; (iii) any grants, issuances, repurchases or withholdings by Holdings of its own Capital Stock (including, the making of any dividend or distribution on account of, or any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value of, any shares of any class of Capital Stock), stock options, stock appreciation rights, restricted stock, restricted stock units, other stock-based awards and performance awards pursuant to any equity incentive plans of Holdings; (iv) filing Tax reports and paying Taxes and other customary obligations in the ordinary course (and contesting any Taxes); (v) preparing reports to Governmental Authorities and to its shareholders; (vi) holding director and shareholder meetings, preparing organizational records and other organizational activities required to maintain its separate organizational structure or to comply with applicable Requirements of Law; (vii) effecting any public offering of its Capital Stock and/or any transaction in connection therewith; (viii) holding Cash, Cash Equivalents and other assets received in connection with Restricted Payments received from, or Investments made by, the Borrower and/or any Restricted Subsidiary or any of their direct or indirect subsidiaries or contributions to the capital of, or proceeds from the issuance of, Capital Stock of Holdings, in each case, pending the application thereof; (ix) providing indemnification and expense reimbursement for its officers, directors, members of management, managers, employees and advisors or consultants; (x) participating in tax, accounting and other administrative matters; (xi) making payments of the type permitted under Section 6.08(f) and the performance of its obligations under the Acquisition Agreement and any other document, agreement and/or Investment contemplated by the Transactions and other transactions expressly contemplated under this Agreement; (xii) complying with applicable Requirements of Law (including with respect to the maintenance of its existence); (xiii) performance of rights and obligations under any Sponsor Management Agreement to which it is a party; and (xiv) activities incidental to any of the foregoing or effecting any transaction permitted under this Agreement, including, without limitation, the Transactions; and

(d) consolidate or amalgamate with, or merge with or into, or convey, sell or otherwise transfer all or substantially all of its assets to, any Person; provided that, so long as no Event of Default exists or would result therefrom, (A) Holdings, Intermediate Holdings and/or Buyer may consolidate or amalgamate with, or merge with or into, any other Person (other than the Borrower or any of its Restricted Subsidiaries) so long as (i) Holdings, Intermediate Holdings and/or Buyer, as applicable, is the continuing or surviving Person or (ii) if the Person formed by or surviving any such consolidation, amalgamation or merger is not Holdings, Intermediate Holdings and/or Buyer, as applicable, (w) the successor Person (such successor Person, "Successor Holdings", "Successor Intermediate Holdings" and/or "Successor Buyer", as applicable) expressly assumes all obligations of Holdings, Intermediate Holdings and/or Buyer, as applicable, under this Agreement and the other Loan Documents to which Holdings, Intermediate Holdings and/or Buyer, as applicable, is a party pursuant to a supplement hereto and/or thereto in a form reasonably satisfactory to the Administrative Agent, (x) Successor Holdings, Successor Intermediate Holdings and/or Successor Buyer, as applicable, shall provide the documentation and other information reasonably requested in writing by the Lenders that they reasonably determine is required by regulatory authorities under applicable "know your customer" and anti-money-laundering rules and regulations, including the PATRIOT Act, in each case at least three Business Days prior to the effectiveness of such merger, consolidation or amalgamation (or such shorter period as the Administrative Agent shall otherwise agree), (y) Successor Holdings, Successor Intermediate Holdings and/or Successor Buyer, as applicable, shall be an entity organized or existing under the laws of the U.S., any state thereof or the District of Columbia, and (z) the Borrower delivers a certificate of a Responsible Officer with respect to the satisfaction of the conditions set forth in clause (w) of this clause (A) and (B) Holdings, Intermediate Holdings and/or Buyer, as applicable, may otherwise convey, sell or otherwise transfer all or substantially all of its assets to any other Person (other than the Borrower and any of its subsidiaries) so long as (x) no Change of Control results therefrom, (y) the Person acquiring such assets expressly assumes all of the obligations of Holdings, Intermediate Holdings and/or Buyer, as applicable, under this Agreement and the other Loan Documents to which Holdings, Intermediate Holdings and/or Buyer, as applicable, is a party pursuant to a supplement hereto and/or thereto in a form reasonably satisfactory to the Administrative Agent and (z) the Borrower delivers a certificate of a Responsible Officer with respect to the satisfaction of the conditions under clause (x) set forth in this clause (B); provided, further, that (1) if the conditions set forth in the preceding proviso are satisfied, Successor Holdings, Successor Intermediate Holdings and/or Successor Buyer, as applicable, will succeed to, and be substituted for, Holdings, Intermediate Holdings and/or Buyer, as applicable, under this Agreement and (2) it is understood and agreed that Holdings, Intermediate Holdings and/or Buyer, as applicable, may convert into another form of entity so long as such conversion does not adversely affect the value of the Loan Guaranty or the Collateral.

Section 6.12 [Reserved].

Section 6.13 Conduct of Business. From and after the Closing Date, (i) neither Holdings, Intermediate Holdings nor the Borrower shall change its Fiscal Year-end to a date other than on or about October 31 and (ii) the Borrower shall not, nor shall it permit any of its Restricted Subsidiaries to, engage in any material line of business other than (a) the businesses engaged in by the Borrower or any of its Restricted Subsidiaries on the Closing Date and similar, complementary, ancillary or related businesses and (b) such other lines of business as may be consented to by the Required Lenders.

ARTICLE 7
EVENTS OF DEFAULT

Section 7.01 Events of Default. If any of the following events (each, an "Event of Default") shall occur:

(a) Failure To Make Payments When Due. Failure by the Borrower to pay (i) any installment of principal of any Loan when due, 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 Business Days after the date due; or

(b) Default in Other Agreements. (i) Failure by any Loan Party or any of its Restricted 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 clause (a) above) with an aggregate outstanding principal amount exceeding the Threshold Amount; or (ii) breach or default by any Loan Party or any of its Restricted Subsidiaries with respect to any other term of such Indebtedness described under the foregoing clause (i) (other than Indebtedness under the ABL Facility) pursuant to any loan agreement, mortgage, indenture or other agreement relating to such item(s) of Indebtedness (other than, for the avoidance of doubt, with respect to Indebtedness consisting of Hedging Obligations, termination events or equivalent events pursuant to the terms of the relevant Hedge Agreement which are not the result of any default thereunder by any Loan Party or any Restricted Subsidiary), in each case under the foregoing clauses (i) and (ii), beyond the grace period, if any, provided therefor, if the effect of such breach or default is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause, such Indebtedness to become or to be declared due and payable (or redeemable) or require that an offer to repurchase, prepay, defease or redeem such Indebtedness be made prior to its stated maturity or the stated maturity of any underlying obligation, as the case may be; provided that clause (ii) of this paragraph (b) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property securing such Indebtedness if such sale or transfer is permitted hereunder; provided, further, that any failure under clauses (i) or (ii) above is unremedied and is not waived by the holders of such Indebtedness prior to any termination of the Commitments or acceleration of the Loans pursuant to Article 7. A breach or default by any Loan Party with respect to the ABL Credit Agreement or with respect to the ABL Facility (other than any payment default thereunder which is subject to clause (i) herein), will not constitute an Event of Default unless the agent and/or lenders thereunder have demanded repayment of, or otherwise accelerated, all of the Indebtedness and terminated commitments thereunder; or

(c) Breach of Certain Covenants. Failure of any Loan Party, as required by the relevant provision, to perform or comply with any term or condition contained in Section 5.01(e)(i) (provided that delivery of any notice of default required to be delivered therein at any time will cure any Event of Default arising from the failure to timely deliver such notice), Section 5.02 (with respect to the preservation of the legal existence of the Borrower) or Article 6; or

(d) Breach of Representations, Etc. Any representation, warranty or certification made or deemed made by any Loan Party in any Loan Document or in any certificate required to be delivered in connection herewith or therewith (including, for the avoidance of doubt, any Perfection Certificate and any Perfection Certificate Supplement) being untrue in any material respect as of the date made or deemed made (subject to a thirty (30) day grace period in the case of any breached representation, warranty or certification (other than a Specified Representation) that is reasonably capable of being cured); or

(e) Other Defaults Under Loan Documents. Default by any Loan Party in the performance of or compliance with any term contained herein or any of the other Loan Documents, other than any such term referred to in any other Section of this Article 7, which default has not been remedied or waived within 30 days after receipt by the Borrower of written notice thereof from the Administrative Agent; or

(f) Involuntary Bankruptcy; Appointment of Receiver, Etc. (i) The entry by a court of competent jurisdiction of a decree or order for relief in respect of Holdings, Intermediate Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) in an involuntary case under any Debtor Relief 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, state or local Requirements of Law; or (ii) the commencement of an involuntary case against Holdings, Intermediate Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) under any Debtor Relief Law; or the entry by a court having jurisdiction in the premises of a decree or order for the appointment of a receiver, receiver and manager, administrator, examiner, (preliminary) insolvency receiver, liquidator, sequestrator, trustee, custodian or other officer having similar powers over Holdings, Intermediate Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary), or over all or a substantial part of its or their property; or the involuntary appointment of an interim receiver, trustee or other custodian of Holdings, Intermediate Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) for all or a substantial part of its property, which remains undismissed, unvacated, unbonded or unstayed pending appeal for 60 consecutive days; or

(g) Voluntary Bankruptcy; Appointment of Receiver, Etc . (i) The entry against Holdings, Intermediate Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) of an order for relief, the commencement by Holdings, Intermediate Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) of a voluntary case under any Debtor Relief Law, or the consent by Holdings, Intermediate Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) 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 Debtor Relief Law, or the consent by Holdings, Intermediate Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) to the appointment of or taking possession by a receiver, receiver and manager, trustee or other custodian for all or a substantial part of its property; (ii) the making by Holdings, Intermediate Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) of a general assignment for the benefit of creditors; or (iii) the admission by Holdings, Intermediate Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) in writing of their inability to pay their respective debts as such debts become due; or

(h) Judgments and Attachments. The entry or filing of one or more final money judgments, writs or warrants of attachment or similar process against Holdings, Intermediate Holdings, the Borrower or any of its Restricted Subsidiaries or any of their respective assets involving in the aggregate at any time an amount in excess of the Threshold Amount (in either case to the extent not adequately covered by self-insurance (if applicable) or by insurance as to which the relevant third party insurance company has been notified and not denied coverage), which judgment, writ, warrant or similar process remains unpaid, undischarged, unvacated, unbonded or unstayed pending appeal for a period of 60 days; or

(i) Employee Benefit Plans. The occurrence of one or more ERISA Events, which individually or in the aggregate result in liability of the Borrower or any of its Restricted Subsidiaries, in an aggregate amount which would reasonably be expected to result in a Material Adverse Effect; or

(j) Change of Control. The occurrence of a Change of Control; or

(k) Guaranties, Collateral Documents and Other Loan Documents. At any time after the execution and delivery thereof, (i) any material Loan Guaranty for any reason, other than the occurrence of the Termination Date, 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 in writing its obligations thereunder (other than as a result of the discharge of such Guarantor in accordance with the terms thereof), (ii) this Agreement or any material Collateral Document ceases to be in full force and effect or shall be declared null and void (other than by reason of (x) a release of Collateral in accordance with the terms hereof or thereof or (y) the occurrence of the Termination Date or any other termination of such Collateral Document in accordance with the terms thereof) or (iii) any Loan Party shall contest in writing the validity or enforceability of any Loan Document or any material provision of any Loan Document or deny in writing that it has any further liability (other than by reason of the occurrence of the Termination Date), including with respect to future advances by the Lenders, under any Loan Document to which it is a party; it being understood and agreed that the failure of the Administrative Agent to maintain possession of any Collateral actually delivered to it or file any UCC (or equivalent) continuation statement shall not result in an Event of Default under this clause (k) or any other provision of any Loan Document; or

(l) Subordination. The Obligations ceasing or the assertion in writing by any Loan Party that the Obligations cease to constitute senior indebtedness under the subordination provisions of any document or instrument evidencing any Junior Indebtedness or Junior Lien Indebtedness in excess of the Threshold Amount or any such subordination provision being invalidated or otherwise ceasing, for any reason, to be valid, binding and enforceable obligations of the parties thereto; or

then, and in every such event (other than an event with respect to the Borrower described in clause (f) or (g) of this Article), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Borrower, take any of the following actions, at the same or different times: declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower. Upon the occurrence and during the continuance of an Event of Default, the Administrative Agent may, and at the request of the Required Lenders shall, exercise any rights and remedies provided to the Administrative Agent under the Loan Documents or at law or equity, including all remedies provided under the UCC.

ARTICLE 8
THE ADMINISTRATIVE AGENT

Each of the Lenders hereby irrevocably appoints Credit Suisse (or any successor appointed pursuant hereto) as Administrative Agent and authorizes the Administrative Agent to take such actions on its behalf, including execution of the other Loan Documents, and to exercise such powers as are delegated to the Administrative Agent by the terms of the Loan Documents, together with such actions and powers as are reasonably incidental thereto.

Any Person serving as Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent, and the term " Lender" or "Lenders" shall, unless otherwise expressly indicated, unless the context otherwise requires or unless such Person is in fact not a Lender, include each Person serving as Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with any Loan Party or any subsidiary of any Loan Party or other Affiliate thereof as if it were not the Administrative Agent hereunder. The Lenders acknowledge that, pursuant to such activities, the Administrative Agent or its Affiliates may receive information regarding any Loan Party or any of its Affiliates (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that the Administrative Agent shall not be under any obligation to provide such information to them.

The Administrative Agent shall not have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing, (a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default exists and the use of the term "agent" herein and in the other Loan Documents with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Requirements of Law; it being understood that such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties, (b) the Administrative Agent shall not have any duty to take any discretionary action or exercise any discretionary power, except discretionary rights and powers that are expressly contemplated by the Loan Documents and which the Administrative Agent is required to exercise in writing as directed by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the relevant circumstances as provided in Section 9.02); provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable Requirements of Law, and (c) except as expressly set forth in the Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to Holdings, Intermediate Holdings or the Borrower or any of its Restricted Subsidiaries that is communicated to or obtained by the Person serving as Administrative Agent or any of its Affiliates in any capacity. The Administrative Agent shall not be liable to the Lenders or any other Secured Parties for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as is necessary, or as the Administrative Agent believes in good faith shall be necessary, under the relevant circumstances as provided in Section 9.02) or in the absence of its own gross negligence or willful misconduct as determined by the final judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein. The Administrative Agent shall not be deemed to have knowledge of any Default or Event of Default unless and until written notice thereof is given to the Administrative Agent by the Borrower or any Lender, and the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or in connection with any Loan Document, (iii) the performance or observance of any covenant, agreement or other term or condition set forth in any Loan Document or the occurrence of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, (v) the creation, perfection or priority of any Lien on the Collateral or the existence, value or sufficiency of the Collateral, (vi) the satisfaction of any condition set forth in Article 4 or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent or (vii) any property, book or record of any Loan Party or any Affiliate thereof.

The Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Disqualified Institutions by any other Lender. Without limiting the generality of the foregoing, the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any other Lender or participant or prospective Lender or Participant is a Disqualified Institution or (y) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of confidential information, to any Disqualified Institution by any other Lender.

Each Lender agrees that, except with the written consent of the Administrative Agent, it will not take any enforcement action hereunder or under any other Loan Document, accelerate the Obligations under any Loan Document, or exercise any right that it might otherwise have under applicable Requirements of Law or otherwise to credit bid at any foreclosure sale, UCC sale, any sale under Section 363 of the Bankruptcy Code or any other similar Disposition of Collateral, whether under other Debtor Relief Laws or otherwise. Notwithstanding the foregoing, a Lender may take action to preserve or enforce its rights against a Loan Party where a deadline or limitation period is applicable that would, absent such action, bar enforcement of the Obligations held by such Lender, including the filing of a proof of claim in a case under the Bankruptcy Code.

Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, the Borrower, the Administrative Agent and each Secured Party agree that (i) no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Loan Guaranty; it being understood and agreed that all powers, rights and remedies hereunder may be exercised solely by the Administrative Agent, on behalf of the Secured Parties in accordance with the terms hereof and all powers, rights and remedies under the other Loan Documents may be exercised solely by the Administrative Agent, and (ii) in the event of a foreclosure by the Administrative Agent on any of the Collateral pursuant to a public or private sale or in the event of any other Disposition (including pursuant to Section 363 of the Bankruptcy Code), (A) the Administrative Agent, as 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, to use and apply all or any portion of the Obligations as a credit on account of the purchase price for any Collateral payable by the Administrative Agent at such Disposition and (B) the Administrative Agent or any Lender may be the purchaser or licensor of all or any portion of such Collateral at any such Disposition.

No holder of any Secured Hedging Obligation or Banking Services Obligation in its respective capacity as such shall have any rights in connection with the management or release of any Collateral or of the obligations of any Loan Party under this Agreement.

Each of the Lenders hereby irrevocably authorizes (and by entering into a Hedge Agreement with respect to any Secured Hedging Obligation and/or by entering into documentation in connection with any Banking Services Obligation, each of the other Secured Parties hereby authorizes and shall be deemed to authorize) the Administrative Agent, on behalf of all Secured Parties to take any of the following actions upon the instruction of the Required Lenders:

(a) consent to the Disposition of all or any portion of the Collateral free and clear of the Liens securing the Secured Obligations in connection with any Disposition pursuant to the applicable provisions of the Bankruptcy Code, including Section 363 thereof or any similar provision in any other Debtor Relief Laws;

(b) credit bid all or any portion of the Secured Obligations, or purchase all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles), in connection with any Disposition of all or any portion of the Collateral pursuant to the applicable provisions of the Bankruptcy Code, including under Section 363 thereof;

(c) credit bid all or any portion of the Secured Obligations, or purchase all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles), in connection with any Disposition of all or any portion of the Collateral pursuant to the applicable provisions of the UCC, including pursuant to Sections 9-610 or 9-620 of the UCC;

(d) credit bid all or any portion of the Secured Obligations, or purchase all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles), in connection with any foreclosure or other Disposition conducted in accordance with applicable Requirements of Law following the occurrence of an Event of Default, including by power of sale, judicial action or otherwise; and/or

(e) estimate the amount of any contingent or unliquidated Secured Obligations of such Lender or other Secured Party;

it being understood that no Lender shall be required to fund any amount in connection with any purchase of all or any portion of the Collateral by the Administrative Agent pursuant to the foregoing clauses (b), (c) or (d) without its prior written consent.

Each Secured Party agrees that the Administrative Agent is under no obligation to credit bid any part of the Secured Obligations or to purchase or retain or acquire any portion of the Collateral; provided that, in connection with any credit bid or purchase described under clauses (b), (c) or (d) of the preceding paragraph, the Secured Obligations owed to all of the Secured Parties (other than with respect to contingent or unliquidated liabilities as set forth in the next succeeding paragraph) may be, and shall be, credit bid by the Administrative Agent on a ratable basis.

With respect to each contingent or unliquidated claim that is a Secured Obligation, the Administrative Agent is hereby authorized, but is not required, to estimate the amount thereof for purposes of any credit bid or purchase described in the second preceding paragraph. In the event that the Administrative Agent, in its sole and absolute discretion, elects not to estimate any such contingent or unliquidated claim, then any contingent or unliquidated claims not so estimated shall be disregarded, shall not be credit bid, and shall not be entitled to any interest in the portion or the entirety of the Collateral purchased by means of such credit bid.

Each Secured Party whose Secured Obligations are credit bid under clauses (b), (c) or (d) of the third preceding paragraph is entitled to receive interests in the Collateral or any other asset acquired in connection with such credit bid (or in the Capital Stock of the acquisition vehicle or vehicles that are used to consummate such acquisition) on a ratable basis in accordance with the percentage obtained by dividing (x) the amount of the Secured Obligations of such Secured Party that were credit bid in such credit bid or other Disposition, by (y) the aggregate amount of all Secured Obligations that were credit bid in such credit bid or other Disposition.

In addition, in case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, each Secured Party agrees that the Administrative Agent (irrespective of whether the principal of any Loan is then due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(i) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts to the extent due to the Lenders and the Administrative Agent under Sections 2.09 and 9.03) allowed in such judicial proceeding; and

(ii) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same.

Any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amount to the extent due to the Administrative Agent under Sections 2.09 and 9.03.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) that it believes to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan that by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent has received notice to the contrary from such Lender prior to the making of such Loan. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

The Administrative Agent may perform any and all of its duties and exercise its rights and powers by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of their respective duties and exercise their respective rights and powers through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative 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 the Administrative Agent.

The Administrative Agent may resign at any time by giving 30 days written notice to the Lenders and the Borrower. If the Administrative Agent is a Defaulting Lender or an Affiliate of a Defaulting Lender, either the Required Lenders or the Borrower may, upon ten days' notice to the Lenders and the Administrative Agent, remove the Administrative Agent. Upon receipt of any such notice of resignation or delivery of any such notice of removal, the Required Lenders shall have the right, with the consent of the Borrower (not to be unreasonably withheld or delayed), to appoint a successor Administrative Agent which shall be a commercial bank or trust company with offices in the U.S. having combined capital and surplus in excess of $1,000,000,000; provided that during the existence and continuation of an Event of Default under Section 7.01(a) or, with respect to the Borrower, Section 7.01(f) or (g), no consent of the Borrower shall be required. If no successor shall have been so appointed as provided above and accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation or the Administrative Agent receives notice of removal, then (a) in the case of a retirement, the retiring Administrative Agent may (but shall not be obligated to), on behalf of the Lenders, appoint a successor Administrative Agent meeting the qualifications set forth above (including, for the avoidance of doubt, consent of the Borrower) or (b) in the case of a removal, the Borrower may, after consulting with the Required Lenders, appoint a successor Administrative Agent meeting the qualifications set forth above; provided that (x) in the case of a retirement, if the Administrative Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment or (y) in the case of a removal, the Borrower notifies the Required Lenders that no qualifying Person has accepted such appointment, then, in each case, such resignation or removal shall nonetheless become effective in accordance with such notice and (i) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent in its capacity as collateral agent for the Secured Parties for purposes of maintaining the perfection of the Lien on the Collateral securing the Secured Obligations, the retiring Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (ii) all payments, communications and determinations required to be made by, to or through the Administrative Agent shall instead be made by or to each Lender (and each Lender will cooperate with the Borrower to enable the Borrower to take such actions), until such time as the Required Lenders or the Borrower, as applicable, appoint a successor Administrative Agent, as provided for above in this Article 8. Upon the acceptance of its appointment as Administrative Agent hereunder as a successor Administrative Agent, the successor Administrative Agent shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring or removed Administrative Agent (other than any rights to indemnity payments owed to the retiring Administrative Agent), and the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder (other than its obligations under Section 9.13). The fees payable by the Borrower to any successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor Administrative Agent. After the Administrative Agent's resignation or removal hereunder, the provisions of this Article 8 and Section 9.03 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any action taken or omitted to be taken by any of them while the relevant Person was acting as Administrative Agent (including for this purpose holding collateral security following retirement or removal of the Administrative Agent). Notwithstanding anything to the contrary herein, no Disqualified Institution may be appointed as a successor Administrative Agent.

Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their respective Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or related agreement or any document furnished hereunder or thereunder. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent herein, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their respective Affiliates which may come into the possession of the Administrative Agent or any of its Related Parties.

Notwithstanding anything to the contrary herein, the Arrangers shall not have any right, power, obligation, liability, responsibility or duty under this Agreement, except in their respective capacities, as applicable, as the Administrative Agent or a Lender hereunder.

Each Lender irrevocably authorizes and instructs the Administrative Agent to, and the Administrative Agent shall (in the case of clauses (c) and (d), promptly after the reasonable request of the Borrower),

(a) release any Lien on any property granted to or held by Administrative Agent under any Loan Document (i) upon the occurrence of the Termination Date, (ii) that is sold or to be sold or transferred as part of or in connection with any Disposition permitted under the Loan Documents to a Person that is not a Loan Party, (iii) constitutes (or becomes) an "Excluded Asset" (iv) if the property subject to such Lien is owned by a Subsidiary Guarantor, upon the release of such Subsidiary Guarantor from its Loan Guaranty otherwise in accordance with the Loan Documents, (v) as required under clause (d) below or (vi) if approved, authorized or ratified in writing by the Required Lenders in accordance with Section 9.02;

(b) release any Subsidiary Guarantor from its obligations under the Loan Guaranty if such Person ceases to be a Restricted Subsidiary (or becomes an Excluded Subsidiary (other than pursuant to clause (a) of the definition thereof)) as a result of a single transaction or series of related transactions permitted hereunder;

(c) subordinate any Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by Sections 6.02(d), 6.02(e), 6.02(g), 6.02(m), 6.02(o), 6.02(p), 6.02(y), 6.02(w), 6.02(x)(i), 6.02(z), 6.02(aa) and 6.02(cc) (and Liens securing Refinancing Indebtedness in respect of any thereof incurred in reliance on Section 6.02(k)); and

(d) enter into subordination, intercreditor and/or similar agreements with respect to Indebtedness (including any Acceptable Intercreditor Agreement) that is (i) required or permitted to be subordinated hereunder and/or (ii) secured by Liens, and with respect to which Indebtedness, this Agreement contemplates an intercreditor, subordination, collateral trust agreement or similar agreement;

provided, that any documentation contemplated by clauses (c) and/or (d) above shall be reasonably satisfactory to the Administrative Agent (it being understood and agreed that any such documentation that is on current market terms shall be deemed to be satisfactory to the Administrative Agent) and the Borrower.

Upon the request of the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Loan Party from its obligations under the Loan Guaranty pursuant to this Article 8. In each case as specified in this Article 8, the Administrative Agent will (and each Lender hereby authorizes the Administrative Agent to), at the Borrower' expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of Collateral from the assignment and security interest granted under the Collateral Documents or to subordinate its interest therein, or to release such Loan Party from its obligations under the Loan Guaranty, in each case in accordance with the terms of the Loan Documents and this Article 8.

The Administrative Agent is authorized to enter into the Intercreditor Agreement and any other Acceptable Intercreditor Agreement, any other intercreditor agreement, collateral trust or similar agreement contemplated hereby with respect to any (a) Indebtedness (i) that is (A) required or permitted to be subordinated hereunder and/or (B) secured by Liens and which contemplates an intercreditor, subordination or collateral trust agreement and/or (b) Secured Hedging Obligations and/or Secured Banking Services Obligations, whether or not constituting Indebtedness (any such other intercreditor agreement, an "Additional Agreement") and, by accepting the benefits of the Collateral, each Secured Party, whether or not a party hereto, hereby acknowledges that the Intercreditor Agreement and any Additional Agreement is binding upon it. By accepting the benefits of the Collateral, each Secured Party, whether or not a party hereto, (a) agrees that it will be bound by, and will not take any action contrary to, the provisions of the Intercreditor Agreement and/or any Additional Agreement, (b) authorizes and instructs the Administrative Agent to execute and deliver, in each case on behalf of such Secured Party and without any further consent, authorization or other action by such Secured Party, any amendments, supplements or other modifications of any Collateral Document to add or remove any legend that may be required pursuant to the Intercreditor Agreement and/or any Additional Agreement and (c) authorizes and instructs the Administrative Agent to enter into the Intercreditor Agreement and/or any Additional Agreement and to subject the Liens on the Collateral securing the Secured Obligations to the provisions thereof. The foregoing provisions are intended as an inducement to the Secured Parties to extend credit to the Borrower, and the Secured Parties are intended third-party beneficiaries of such provisions and the provisions of the Intercreditor Agreement and/or any Additional Agreement.

To the extent that the Administrative Agent (or any Affiliate thereof) is not reimbursed and indemnified by the Borrower in accordance with and to the extent required by Section 9.03(b), the Lenders will reimburse and indemnify the Administrative Agent (and any Affiliate thereof) in proportion to their respective Applicable Percentages (determined as if there were no Defaulting Lenders) for and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, judgments, costs, expenses or disbursements of whatsoever kind or nature which may be imposed on, asserted against or incurred by the Administrative Agent (or any Affiliate thereof) in performing its duties hereunder or under any other Loan Document or in any way relating to or arising out of this Agreement or any other Loan Document; provided that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, claims, actions, judgments, suits, costs, expenses or disbursements resulting from the Administrative Agent's (or such affiliate's) gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final and non-appealable decision).

Each counterparty to a Hedge Agreement that constitutes a Secured Hedging Obligation and each provider of Banking Services that constitutes Banking Services Obligations acknowledges and agrees that neither the Administrative Agent nor any Lender owes such Person, solely by virtue of its interest in Banking Services Obligations and Hedging Obligations, any duty under the Loan Documents (except that any payments in respect of the Obligations and proceeds of Collateral, in each case received by the Administrative Agent, shall be applied as provided in Section 2.15(b)) and such Person, solely by virtue of its interest in such Hedging Obligations, has no voting or consent rights under the Loan Documents (including Section 9.02). The Administrative Agent shall be entitled to assume no amounts are due or owing in respect of Banking Services Obligations and Hedging Obligations to any Person with an interest in any Banking Services Obligations and Hedging Obligations unless such Person has provided a written certification (setting forth a reasonably detailed calculation) to the Administrative Agent as to the amounts that are due and owing to it and such written certification is received by the Administrative Agent a reasonable period of time prior to the making of any distribution pursuant to Section 2.15(b). The Administrative Agent shall have no obligation to calculate the amount due and payable with respect to any Banking Services Obligations and Hedging Obligations, but may rely upon the written certification of the amount due and payable from the applicable counterparty to a Hedge Agreement that constitutes a Secured Hedging Obligation or the applicable provider of Banking Services that constitutes Banking Services Obligations, as the case may be. In the absence of an updated certification, the Administrative Agent shall be entitled to assume that the amount due and payable to such Person is the amount last certified to the Administrative Agent by such Person as being due and payable (less any distributions made by the Administrative Agent to such Person on account thereof).

Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments or this Agreement,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

In addition, unless either (1) sub-clause (i) in the immediately preceding paragraph is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding paragraph, such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that the Administrative Agent is not a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

ARTICLE 9
MISCELLANEOUS

Section 9.01 Notices.

(a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile or email, as follows:

(i) if to any Loan Party, to such Loan Party in the care of the Borrower at:

Concrete Pumping Holdings, Inc.
6461 Downing Street
Denver, CO 80029
Attn: Iain Humphries
Tel.: (303) 289-7497
Email: iainhumphries@brundagebone.com

with copy to:

Argand Partners LP
Club Row Building
28 West 44th Street, Suite 501
New York, NY 10036
Attn: Tariq Osman
Tel.: (212) 588-6470
Email: tosman@argandequity.com

with additional copy to (which shall not constitute notice to any Loan Party):

Winston & Strawn LLP
200 Park Avenue
New York, NY 10166-4193
Attn: Peter Alfano
Tel.: (212) 294-6765
Email: palfano@winston.com

(ii) if to the Administrative Agent, at:

Credit Suisse AG, Cayman Islands Branch
Eleven Madison Avenue., 9th Floor
New York, NY 10010
Tel.: 919-994-6369
Attn: Loan Operations – Agency Manager
Fax: 212-322-2291
Email: agency.loanops@credit-suisse.com

with copy to (which shall not constitute notice to the Administrative Agent):

Davis Polk & Wardwell, LLP
450 Lexington Avenue
New York, NY 10017
Attn: Jason Kyrwood
Tel.: (212) 450-4653
Fax: (212) 701-5653
Email: jason.kyrwood@davispolk.com

(iii) if to any Lender, to it at its address or facsimile number set forth in its Administrative Questionnaire.

All such notices and other communications (A) sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when delivered in person or by courier service and signed for against receipt thereof or three Business Days after dispatch if sent by certified or registered mail, in each case, delivered, sent or mailed (properly addressed) to the relevant party as provided in this Section 9.01 or in accordance with the latest unrevoked direction from such party given in accordance with this Section 9.01 or (B) sent by facsimile shall be deemed to have been given when sent and when receipt has been confirmed by telephone; provided that notices and other communications sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, such notices or other communications shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in clause (b) below shall be effective as provided in such clause (b).

(b) Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications (including e-mail and Internet or Intranet websites) pursuant to procedures set forth herein or otherwise approved by the Administrative Agent. The Administrative Agent or the Borrower (on behalf of any Loan Party) may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures set forth herein or otherwise approved by it; provided that approval of such procedures may be limited to particular notices or communications. All such notices and other communications (i) sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); provided that any such notice or communication not given during the normal business hours of the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient, and (ii) posted to an Internet or Intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (b)(i) of notification that such notice or communication is available and identifying the website address therefor.

(c) Any party hereto may change its address or facsimile number for notices and other communications hereunder by written notice to the other parties hereto.

Section 9.02 Waivers; Amendments.

(a) No failure or delay by the Administrative Agent or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent and the Lenders hereunder and under any other Loan Document are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of any Loan Document or consent to any departure by any party hereto therefrom shall in any event be effective unless the same is permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, to the extent permitted by applicable Requirements of Law, the making of any Loan shall not be construed as a waiver of any Default or Event of Default, regardless of whether the Administrative Agent or any Lender may have had notice or knowledge of such Default or Event of Default at the time.

(b) Subject to clauses (A) and (B) of this Section 9.02(b) and Sections 9.02(c) and (d) below, neither this Agreement nor any other Loan Document nor any provision hereof or thereof may be waived, amended or modified, except (i) in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by the Borrower and the Required Lenders (or the Administrative Agent with the consent of the Required Lenders) or (ii) in the case of any other Loan Document (other than any waiver, amendment or modification to effectuate any modification thereto expressly contemplated by the terms of such other Loan Document), pursuant to an agreement or agreements in writing entered into by the Administrative Agent and each Loan Party that is party thereto, with the consent of the Required Lenders; provided that, notwithstanding the foregoing:

(A) the consent of each Lender directly and adversely affected thereby shall be required for any waiver, amendment or modification that:

(1) increases the Commitment of such Lender (other than with respect to any Incremental Facility pursuant to Section 2.19 in respect of which such Lender has agreed to be an Additional Lender); it being understood that no amendment, modification or waiver of, or consent to departure from, any condition precedent, representation or warranty, covenant, Default, Event of Default, mandatory prepayment or mandatory reduction of the Commitments shall constitute an increase of any Commitment of such Lender;

(2) reduces the principal amount of any Loan owed to such Lender or any amount due to such Lender on any Loan Installment Date;

(3) (x) extends the scheduled final maturity of any Loan or (y) postpones any Loan Installment Date or any Interest Payment Date with respect to Loans held by such Lender or the date of any scheduled payment of any fee payable to such Lender hereunder;

(4) reduces the rate of interest (other than to waive any Default or Event of Default or any obligation of the Borrower to pay interest to such Lender at the default rate of interest under Section 2.10(c), which shall only require the consent of the Required Lenders) or the amount of any fee owed to such Lender; it being understood that no change in the definition of "First Lien Leverage Ratio", "Total Leverage Ratio", "Secured Leverage Ratio" or any other ratio used in the calculation of any interest or fee due hereunder (including any component definition thereof) shall constitute a reduction in any rate of interest or fee hereunder;

(5) extends the expiry date of such Lender's Commitment; it being understood that no amendment, modification or waiver of, or consent to departure from, any condition precedent, representation, warranty, covenant, Default, Event of Default, mandatory prepayment or mandatory reduction of any Commitment shall constitute an extension of any Commitment of any Lender; and

(6) waives, amends or modifies the provisions of Sections 2.08 or 2.15 of this Agreement or any other provision of the Loan Documents in a manner that would alter the pro rata sharing of payments (including for the avoidance of doubt among Classes or tranches) required thereby (except in connection with any transaction permitted under Sections 2.19, 2.20, 9.02(c) and/or 9.05(g));

(B) no such agreement shall:

(1) change any of the provisions of Section 9.02(a) or (b) or the definition of "Required Lenders" to reduce any voting percentage required to waive, amend or modify any right thereunder or make any determination or grant any consent thereunder, without the prior written consent of each Lender;

(2) release all or substantially all of the Collateral from the Lien granted pursuant to the Loan Documents (except as otherwise permitted herein or in the other Loan Documents, including pursuant to Article 8 or Section 9.21 hereof), without the prior written consent of each Lender; or

(3) release all or substantially all of the value of the Guarantees under the Loan Guaranty (except as otherwise permitted herein or in the other Loan Documents, including pursuant to Section 9.18 hereof), without the prior written consent of each Lender;

provided, further, that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent hereunder in a manner directly and adversely affecting such Person, without the prior written consent of the Administrative Agent.

(c) Notwithstanding the foregoing, this Agreement may be amended with the written consent of the Borrower and the Lenders providing the relevant Replacement Term Loans to permit the refinancing or replacement of all or any portion of the outstanding Term Loans under any Class (any such loans being refinanced or replaced, the "Replaced Term Loans") with one or more replacement term loans hereunder ("Replacement Term Loans") pursuant to a Refinancing Amendment; provided that

(i) the aggregate principal amount of any Replacement Term Loans shall not exceed the aggregate principal amount of the Replaced Term Loans (plus (1) any additional amounts permitted to be incurred under Section 6.01(a), (o), (q) and/or (s) and, to the extent any such additional amounts are secured, the related Liens are permitted under Section 6.02(k) (with respect to Liens securing Indebtedness permitted by Section 6.01(a), (o), (q) and/or (s)) plus (2) the amount of accrued interest and premium (including tender premium) thereon and underwriting discounts, fees (including upfront fees and original issue discount), commissions and expenses associated therewith),

(ii) any Replacement Term Loans must have a final maturity date that is equal to or later than the final maturity date of, and have a Weighted Average Life to Maturity that is equal to or greater than the Weighted Average Life to Maturity of, the relevant Replaced Term Loans at the time of the relevant refinancing,

(iii) any Replacement Term Loans may be pari passu with or junior to any then-existing Term Loans in right of payment and pari passu with or junior to such Term Loans with respect to the Collateral (provided that any Replacement Term Loans that are pari passu with or junior to any then-existing Term Loans shall be subject to an Acceptable Intercreditor Agreement and may be, at the option of the Administrative Agent and the Borrower, documented in a separate agreement or agreements), or be unsecured,

(iv) any Replacement Term Loans that are secured may not be secured by any assets other than the Collateral,

(v) any Replacement Term Loans that are guaranteed may not be guaranteed by any Person other than the Loan Parties,

(vi) any Replacement Term Loans may not participate on a greater than pro rata basis in any mandatory prepayment in respect of the Term Loans (and any Additional Term Loans then subject to ratable repayment requirements),

(vii) any Replacement Term Loans may have pricing (including interest, fees and premiums) and, subject to preceding clause (vi), optional prepayment and redemption terms as may be agreed by the Borrower and the lenders providing such Replacement Term Loans, and

(viii) either (i) the other terms and conditions of any Replacement Term Loans (excluding pricing, interest, fees, rate floors, premiums, optional prepayment or redemption terms, security and maturity, subject to preceding clauses (ii) through (vii)) are substantially identical to, or (taken as a whole) not materially more favorable (as reasonably determined by the Borrower) to the lenders providing such Replacement Term Loans than those applicable to the relevant Replaced Term Loans (other than covenants or other provisions applicable only to periods after the Latest Term Loan Maturity Date (in each case, as of the date of incurrence of such Replacement Term Loans)) or (ii) such Replacement Term Loans are provided on then-current market terms and conditions (taken as a whole) at the time of incurrence (as reasonably determined by the Borrower) for the applicable type of Indebtedness.

(d) Notwithstanding anything to the contrary contained in this Section 9.02 or any other provision of this Agreement or any provision of any other Loan Document:

(i) the Borrower and the Administrative Agent may, without the input or consent of any Lender, amend, supplement and/or waive this Agreement, any other Loan Document or any guaranty, collateral security agreement, pledge agreement and/or related document (if any) executed in connection with this Agreement or any other Loan Document (A) to comply with any Requirement of Law or the advice of counsel, (B) to cause any such guaranty, collateral security agreement, pledge agreement or other document to be consistent with this Agreement and/or the relevant other Loan Documents, (C) as required by Article 8 or (D) to cure any obvious error or any ambiguity, omission, defect or inconsistency of a technical nature,

(ii) the Borrower and the Administrative Agent may, without the input or consent of any other Lender (other than the relevant Lenders (including Additional Lenders) providing Loans under such Sections), effect amendments to this Agreement and the other Loan Documents as may be necessary in the reasonable opinion of the Borrower and the Administrative Agent to (1) effect the provisions of Sections 2.19, 2.20, 5.12, 6.13(i) or 9.02(c), or any other provision specifying that any waiver, amendment or modification may be made with the consent or approval of the Administrative Agent and/or (2) to add terms (including representations and warranties, conditions, prepayments, covenants or events of default), in connection with the addition of any Loan or Commitment hereunder, that are favorable to the then-existing Lenders, as reasonably determined by the Administrative Agent,

(iii) the Administrative Agent and the Borrower may amend, restate, amend and restate or otherwise modify the Intercreditor Agreement and/or any other Acceptable Intercreditor Agreement and/or Additional Agreement, as provided therein, in connection with a transaction permitted hereunder,

(iv) the Administrative Agent may amend the Commitment Schedule to reflect assignments entered into pursuant to Section 9.05, Commitment reductions or terminations pursuant to Section 2.06, implementations of Additional Term Loan Commitments or incurrences of Additional Term Loans pursuant to Sections 2.19, 2.20 or 9.02(c) and reductions or terminations of any such Additional Term Loan Commitments or Additional Term Loans,

(v) no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except as permitted pursuant to Section 2.18 and except that the Commitment and any Additional Commitment of any Defaulting Lender may not be increased without the consent of such Defaulting Lender (it being understood that any Commitment or Loan held or deemed held by any Defaulting Lender shall be excluded from any vote hereunder that requires the consent of any Lender, except as expressly provided in Section 2.18),

(vi) this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Borrower (i) to add one or more additional credit facilities to this Agreement and to permit any extension of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the relevant benefits of this Agreement and the other Loan Documents and (ii) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders on substantially the same basis as the Lenders prior to such inclusion;

(vii) any amendment, waiver or other modification of this Agreement that by its terms affects the rights or duties under this Agreement of the Lenders of one or more Classes (but not the Lenders of any other Class), may be effected by an agreement or agreements in writing entered into by the Borrower and the requisite number or percentage in interest of each affected Class of Lenders that would be required to consent thereto under this Section if such Class of Lenders were the only Class of Lenders hereunder at the time; and

(viii) this Agreement and any other Loan Document may be amended solely with the consent of the Administrative Agent and the Borrower without the need to obtain the consent of any other Lender if such amendment is delivered in order to implement the "market flex" provisions set forth in the Fee Letter; provided however, that notwithstanding the foregoing or any other provision hereof, if the Borrower shall fail to execute any amendment that the Requisite Lead Arrangers (as defined in the Fee Letter) reasonably determine to be necessary to effect the changes contemplated by the Flex Provisions (as defined in the Fee Letter) within three Business Days from the date of delivery to the Borrower of a draft thereof, then the Administrative Agent is and shall be authorized to execute such amendment on behalf of the Borrower and such amendment shall become effective without further action by any Person.

Section 9.03 Expenses; Indemnity.

(a) Except as otherwise provided in Section 5.06, the Borrower shall pay (i) all reasonable and documented out-of-pocket expenses incurred by each Arranger, the Administrative Agent and their respective Affiliates (but limited, in the case of legal fees and expenses, to the actual reasonable and documented out-of-pocket fees, disbursements and other charges of one firm of outside counsel to all such Persons taken as a whole and, if necessary, of one local counsel in any material relevant jurisdiction to all such Persons, taken as a whole) in connection with the syndication and distribution (including via the Internet or through a service such as IntraLinks) of the Term Facility, the preparation, execution, delivery and administration of the Loan Documents and any related documentation, including in connection with any amendment, modification or waiver of any provision of any Loan Document (whether or not the transactions contemplated thereby are consummated) and (ii) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent, the Arrangers or the Lenders or any of their respective Affiliates (but limited, in the case of legal fees and expenses, to the actual reasonable and documented out-of-pocket fees, disbursements and other charges of one firm of outside counsel to all such Persons taken as a whole and, if necessary, of one local counsel in any material relevant jurisdiction to all such Persons, taken as a whole) in connection with the enforcement, collection or protection of their respective rights in connection with the Loan Documents, including their respective rights under this Section, or in connection with the Loans made hereunder. Other than to the extent required to be paid on the Closing Date, all amounts due under this paragraph (a) shall be payable by the Borrower within 30 days of receipt of an invoice setting forth such expenses in reasonable detail.

(b) The Borrower shall indemnify each Arranger, the Administrative Agent, each Lender, and each Related Party of any of the foregoing Persons, in each case, other than Disqualified Institutions (each such Person, together with their successors and assigns, an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages and liabilities to which such Indemnitee may become subject arising out of or in connection with (i) the preparation, execution, delivery or administration of the Loan Documents or any agreement or instrument contemplated thereby or the syndication of the Term Facility, the performance by the parties hereto of their respective obligations thereunder or the consummation of the Transactions or any other transactions contemplated hereby or thereby, (ii) the use of the proceeds of the Loans or (iii) any actual or alleged presence or Release of Hazardous Materials at, on, under or from any currently or formerly owned, leased or operated real property or facility, or any Environmental Liability or Environmental Claim related in any way to any Loan Party or any of their respective subsidiaries or (iv) any claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory and regardless of whether any Indemnitee is a party thereto (a "Proceeding"), regardless of whether such matter is initiated by a third party or by the Borrower, any other Loan Party or any of their respective Affiliates, and to reimburse each Indemnitee within 30 days following written demand therefor (together with customary backup documentation in reasonable detail supporting such reimbursement request) for any reasonable and documented legal or other out-of-pocket expenses incurred in connection with investigating or defending a Proceeding (but limited, in the case of legal fees and expenses, to the actual reasonable and documented out-of-pocket fees, disbursements and other charges of one counsel to all Indemnitees taken as a whole and, if reasonably necessary, one local counsel in any material relevant jurisdiction to all Indemnitees, taken as a whole and solely in the case of an actual or reasonably perceived conflict of interest where an Indemnitee informs the Borrower of such conflict, (x) one additional counsel to all affected Indemnitees, taken as a whole, and (y) one additional local counsel to all affected Indemnitees, taken as a whole), incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that any such loss, claim, damage, or liability (i) is determined by a final and non-appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnitee or such Indemnitee's affiliates, controlling Persons or its or their respective directors, managers, officers, trustees, employees, partners, agents, advisors or other representatives or, to the extent such judgment finds that any such loss, claim, damage, or liability has resulted from such Person's material breach of the Loan Documents or (ii) arises out of any claim, litigation, investigation or proceeding brought by such Indemnitee solely against one or more other Indemnitees (other than any claim, litigation, investigation or proceeding that is brought by or against the Administrative Agent or any Arranger, acting in its capacity as the Administrative Agent or an Arranger) that does not involve any act or omission of Holdings, Intermediate Holdings, the Borrower or any of their respective subsidiaries. All amounts due under this paragraph (b) shall be payable by the Borrower within 30 days (x) after written demand therefor, in the case of any indemnification obligations and (y) in the case of reimbursement of costs and expenses, after receipt by the Borrower of an invoice setting forth such costs and expenses in reasonable detail, together with customary backup documentation supporting the relevant reimbursement request. This Section 9.03(b) shall not apply to Taxes other than any Taxes that represent losses, claims, damages or liabilities in respect of a non-Tax claim.

(c) The Borrower shall not be liable for any settlement of any proceeding effected without its written consent (which consent shall not be unreasonably withheld or delayed), but if any proceeding is settled with the written consent of the Borrower, or if there is a final judgment against any Indemnitee in any such proceeding, the Borrower agrees to indemnify and hold harmless each Indemnitee to the extent and in the manner set forth above. No Borrower shall, without the prior written consent of the affected Indemnitee (which consent shall not be unreasonably withheld or delayed), effect any settlement of any pending or threatened proceeding in respect of which indemnity could have been sought hereunder by such Indemnitee unless (i) such settlement includes an unconditional release of such Indemnitee from all liability or claims that are the subject matter of such proceeding and (ii) such settlement does not include any statement as to any admission of fault or culpability.

Section 9.04 Waiver of Claim. To the extent permitted by applicable Requirements of Law, no party to this Agreement shall assert, and each hereby waives, any claim against any other party hereto, any Loan Party and/or any Related Party of any thereof, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement or any agreement or instrument contemplated hereby, the Transactions, any Loan or the use of the proceeds thereof, except, in the case of any claim by any Indemnitee against the Borrower, to the extent such damages would otherwise be subject to indemnification pursuant to the terms of Section 9.03.

Section 9.05 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns; provided that (i) except as provided under Section 6.07, the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with the terms of this Section 9.05 (any attempted assignment or transfer not complying with the terms of this Section 9.05 shall be null and void except as otherwise provided herein). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and permitted assigns, to the extent provided in paragraph (e) of this Section, Participants and, to the extent expressly contemplated hereby, the Related Parties of each of the Arrangers, the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of any Loan or Additional Term Loan Commitment added pursuant to Sections 2.19, 2.20 or 9.02(c) at the time owing to it) with the prior written consent of:

(A) the Borrower (such consent not to be unreasonably withheld); provided, that the Borrower shall be deemed to have consented to any such assignment unless it has objected thereto by written notice to the Administrative Agent within 10 Business Days after receipt of written notice thereof *provided, further*, that the Borrower's consent shall not be required for any assignment (1) to any Term Lender or any Affiliate of any Term Lender or an Approved Fund or (2) at any time when an Event of Default under Section 7.01(a), (f) or (g) (in each case, with respect to the Borrower) exists; and

(B) the Administrative Agent (not to be unreasonably withheld or delayed); provided, that no consent of the Administrative Agent shall be required for any assignment to another Lender, any Affiliate of a Lender, an Arranger, any Affiliate of an Arranger, or any Approved Fund.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of any assignment to another Lender, any Affiliate of any Lender or any Approved Fund or any assignment of the entire remaining amount of the relevant assigning Lender's Loans or Commitments of any Class, the principal amount of Loans or Commitments of the assigning Lender subject to the relevant assignment (determined as of the date on which the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent and determined on an aggregate basis in the event of concurrent assignments to Related Funds or by Related Funds) shall not be less than $1,000,000, unless the Borrower and the Administrative Agent otherwise consent;

(B) any partial assignment shall be made as an assignment of a proportionate part of all the relevant assigning Lender's rights and obligations under this Agreement;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption via an electronic settlement system acceptable to the Administrative Agent (or, if previously agreed with the Administrative Agent, manually), and shall pay to the Administrative Agent a processing and recordation fee of $3,500 (which fee may be waived or reduced in the sole discretion of the Administrative Agent); and

(D) the relevant Eligible Assignee, if it is not a Lender, shall deliver on or prior to the effective date of such assignment, to the Administrative Agent (1) an Administrative Questionnaire and (2) any Internal Revenue Service form or other document required under Section 2.14.

(iii) Subject to the acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section, from and after the effective date specified in any Assignment and Assumption, the Eligible Assignee thereunder shall be a party hereto and, to the extent of the interest assigned pursuant to such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be (A) entitled to the benefits of Sections 2.12, 2.13, 2.14 and 9.03 with respect to facts and circumstances occurring on or prior to the effective date of such assignment and (B) subject to its obligations thereunder and under Section 9.13). If any assignment by any Lender holding any Promissory Note is made after the issuance of such Promissory Note, the assigning Lender shall, upon the effectiveness of such assignment or as promptly thereafter as practicable, surrender such Promissory Note to the Administrative Agent for cancellation, and, following such cancellation, if requested by either the assignee or the assigning Lender, the Borrower shall issue and deliver a new Promissory Note to such assignee and/or to such assigning Lender, with appropriate insertions, to reflect the new commitments and/or outstanding Loans of the assignee and/or the assigning Lender.

(iv) The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders and their respective successors and assigns, and the commitment of, and principal amount of and interest on the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, absent manifest error, and the Borrower, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and each Lender (but only as to its own holdings), at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an Eligible Assignee, the Eligible Assignee's completed Administrative Questionnaire and any tax certification required by Section 9.05(b)(ii)(D)(2) (unless the assignee is already a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section, if applicable, and any written consent to the relevant assignment required by paragraph (b) of this Section, the Administrative Agent shall promptly accept such Assignment and Assumption and record the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(vi) By executing and delivering an Assignment and Assumption, the assigning Lender and the Eligible Assignee thereunder shall be deemed to confirm and agree with each other and the other parties hereto as follows: (A) the assigning Lender warrants that it is the legal and beneficial owner of the interest being assigned thereby free and clear of any adverse claim and that the amount of its commitments, and the outstanding balances of its Loans, in each case without giving effect to any assignment thereof which has not become effective, are as set forth in such Assignment and Assumption, (B) except as set forth in clause (A) above, the assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statement, warranty or representation made in or in connection with this Agreement, or the execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto, or the financial condition of the Borrower or any Restricted Subsidiary or the performance or observance by the Borrower or any Restricted Subsidiary of any of its obligations under this Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto; (C) such assignee represents and warrants that it is an Eligible Assignee, legally authorized to enter into such Assignment and Assumption; (D) the assignee confirms that it has received a copy of this Agreement and the Intercreditor Agreement, together with copies of the most recent financial statements referred to in Section 4.01(c) or the most recent financial statements delivered pursuant to Section 5.01 and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment and Assumption; (E) the assignee will independently and without reliance upon the Administrative Agent, the assigning Lender or any other Lender and based on such documents and information as it deems appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement; (F) the assignee appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers under this Agreement as are delegated to the Administrative Agent, by the terms hereof, together with such powers as are reasonably incidental thereto; and (G) the assignee agrees that it will perform in accordance with their terms all the obligations which by the terms of this Agreement are required to be performed by it as a Lender.

(c) (i) Any Lender may, without the consent of the Borrower, the Administrative Agent or any other Lender, sell participations to any bank or other entity (other than to any Disqualified Institution, any natural Person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural Person) as if the limitation applied to such participations), the Borrower or any of its Affiliates) (a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its commitments and the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrower, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which any Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the relevant Participant, agree to any amendment, modification or waiver described in (x) clause (A) of the first proviso to Section 9.02(b) that directly and adversely affects the Loans or commitments in which such Participant has an interest and (y) clauses (B)(1), (2) or (3) of the first proviso to Section 9.02(b). Subject to paragraph (c)(ii) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.12, 2.13 and 2.14 (subject to the limitations and requirements of such Sections and Section 2.16) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section (it being understood that the documentation required under Section 2.14(f) shall be delivered to the participating Lender). To the extent permitted by applicable Requirements of Law, each Participant also shall be entitled to the benefits of Section 9.09 as though it were a Lender; provided that such Participant shall be subject to Section 2.15(c) as though it were a Lender.

(ii) No Participant shall be entitled to receive any greater payment under Section 2.12, 2.13 or 2.14 than the participating Lender would have been entitled to receive with respect to the participation sold to such Participant, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after such Participant acquired the applicable participation.

(iii) Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and their respective successors and registered assigns, and the principal and interest amounts of each Participant's interest in the Loans or other obligations under the Loan Documents (a "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and each Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (other than to any Disqualified Institution or any natural Person, or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural Person) to secure obligations of such Lender, including without limitation any pledge or assignment to secure obligations to any Federal Reserve Bank or other central bank having jurisdiction over such Lender, and this Section 9.05 shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release any Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(e) Notwithstanding anything to the contrary contained herein, any Lender (a "Granting Lender") may grant to a special purpose funding vehicle (an "SPC"), identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower, the option to provide to the Borrower all or any part of any Loan that such Granting Lender would otherwise be obligated to make to the Borrower pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPC to make any Loan, (ii) if an SPC elects not to exercise such option or otherwise fails to provide all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof and (iii) in no event may any Lender grant any option to provide the Borrower all or any part of any Loan that such Granting Lender would have otherwise been obligated to make to the Borrower pursuant to this Agreement to any Disqualified Institution. The making of any Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Each party hereto hereby agrees that (i) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrower under this Agreement (including its obligations under Section 2.12, 2.13 or 2.14) and no SPC shall be entitled to any greater amount under Section 2.10, 2.13 or 2.14 or any other provision of this Agreement or any other Loan Document that the Granting Lender would have been entitled to receive, (ii) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement (all liability for which shall remain with the Granting Lender) and (iii) the Granting Lender shall for all purposes including approval of any amendment, waiver or other modification of any provision of the Loan Documents, remain the Lender of record hereunder. In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior indebtedness of any SPC, it will not institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings under the Requirements of Law of the U.S. or any State thereof; provided that (i) such SPC's Granting Lender is in compliance in all material respects with its obligations to the Borrower hereunder and (ii) each Lender designating any SPC hereby agrees to indemnify, save and hold harmless each other party hereto for any loss, cost, damage or expense arising out of its inability to institute such a proceeding against such SPC during such period of forbearance. In addition, notwithstanding anything to the contrary contained in this Section 9.05, any SPC may (i) with notice to, but without the prior written consent of, the Borrower or the Administrative Agent and without paying any processing fee therefor, assign all or a portion of its interests in any Loan to the Granting Lender and (ii) disclose on a confidential basis any non-public information relating to its Loans to any rating agency, commercial paper dealer or provider of any surety, guaranty or credit or liquidity enhancement to such SPC.

(f) (i) Upon the request of any Lender, the Borrower shall make available to such Lender the list of Disqualified Institutions (other than Affiliates identifiable solely on the basis of their name referred to in the definition of "Disqualified Institutions") at the relevant time and such Lender may provide the list to any potential assignee or participant on a confidential basis in accordance with Section 9.13 hereof for the sole purpose of verifying whether such Person is a Disqualified Institution.

(ii) If any assignment or participation under this Section 9.05 is made to any Disqualified Institution without the Borrower's prior written consent (any such person, a "Disqualified Person"), then, such assignment or participation shall not be null and void, but the Borrower may, at its sole expense and effort, upon notice to the applicable Disqualified Person and the Administrative Agent, (A) terminate any Commitment of such Disqualified Person and repay all obligations of the Borrower owing to such Disqualified Person, (B) in the case of any outstanding Term Loans, held by such Disqualified Person, purchase such Term Loans by paying the lesser of (x) par and (y) the amount that such Disqualified Person paid to acquire such Term Loans, plus accrued interest thereon, accrued fees and all other amounts payable to it hereunder and/or (C) require such Disqualified Person to assign, without recourse (in accordance with and subject to the restrictions contained in this Section 9.05), all of its interests, rights and obligations under this Agreement to one or more Eligible Assignees; *provided,* that (I) in the case of clause (B), the applicable Disqualified Person has received payment of an amount equal to the lesser of (1) par and (2) the amount that such Disqualified Person paid for the applicable Loans, plus accrued interest thereon, accrued fees and all other amounts payable to it hereunder, from the Borrower, (II) in the case of clauses (A) and (B), the Borrower shall be liable to the relevant Disqualified Person under Section 2.13 if any Eurocurrency Rate Loan owing to such Disqualified Person is repaid or purchased other than on the last day of the Interest Period relating thereto and (III) in the case of clause (C), the relevant assignment shall otherwise comply with this Section 9.05 (except that no registration and processing fee required under this Section 9.05 shall be required with any assignment pursuant to this paragraph). Nothing in this Section 9.05(f) shall be deemed to prejudice any right or remedy that Holdings, Intermediate Holdings or the Borrower may otherwise have at law or equity.

(iii) Notwithstanding anything to the contrary contained in this Agreement, Disqualified Persons (A) will not (x) have the right to receive information, reports or other materials provided to Lenders by the Borrower, the Administrative Agent or any other Lender, (y) attend or participate in meetings attended by the Lenders and the Administrative Agent, or (z) access any electronic site established for the Lenders or confidential communications from counsel to or financial advisors of the Administrative Agent or the Lenders and (B) (x) for purposes of any consent to any amendment, waiver or modification of, or any action under, and for the purpose of any direction to the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) under this Agreement or any other Loan Document, each Disqualified Institution will be deemed to have consented in the same proportion as the Lenders that are not Disqualified Institutions consented to such matter, and (y) for purposes of voting on any Bankruptcy Plan, each Disqualified Institution party hereto hereby agrees (1) not to vote on such Bankruptcy Plan, (2) if such Disqualified Institution does vote on such Bankruptcy Plan notwithstanding the restriction in the foregoing clause (1), such vote will be deemed not to be in good faith and shall be "designated" pursuant to Section 1126(e) of the Bankruptcy Code (or any similar provision in any other Debtor Relief Laws), and such vote shall not be counted in determining whether the applicable class has accepted or rejected such Bankruptcy Plan in accordance with Section 1126(c) of the Bankruptcy Code (or any similar provision in any other Debtor Relief Laws) and (3) not to contest any request by any party for a determination by the Bankruptcy Court (or other applicable court of competent jurisdiction) effectuating the foregoing clause (2).

(g) Notwithstanding anything to the contrary contained herein, any Lender may, at any time, assign all or a portion of its rights and obligations under this Agreement in respect of its Term Loans to any Affiliated Lender, Holdings, Intermediate Holdings, the Borrower or any Subsidiary of the Borrower on a non-pro rata basis (A) through Dutch Auctions open to all Lenders holding the relevant Term Loans on a pro rata basis or (B) through open market purchases, in each case with respect to clauses (A) and (B), without the consent of the Administrative Agent; provided that:

(i) any Term Loans acquired by Holdings, Intermediate Holdings, the Borrower or any of its subsidiaries shall be retired and cancelled immediately upon the acquisition thereof; provided that upon any such retirement and cancellation, the aggregate outstanding principal amount of the Term Loans shall be deemed reduced by the full par value of the aggregate principal amount of the Term Loans so retired and cancelled, and each principal repayment installment with respect to the Term Loans pursuant to Section 2.07(a) shall be reduced on a pro rata basis by the full par value of the aggregate principal amount of Term Loans so cancelled;

(ii) any Term Loans acquired by any Affiliated Lender may (but shall not be required to) be contributed to the Borrower or any of its subsidiaries (it being understood that any such Term Loans shall be retired and cancelled immediately upon such contribution); provided that upon any such cancellation, the aggregate outstanding principal amount of the Term Loans shall be deemed reduced, as of the date of such contribution, by the full par value of the aggregate principal amount of the Term Loans so contributed and cancelled, and each principal repayment installment with respect to the Term Loans pursuant to Section 2.07(a) shall be reduced pro rata by the full par value of the aggregate principal amount of Term Loans so contributed and cancelled;

(iii) the relevant Affiliated Lender, Holdings, Intermediate Holdings, the Borrower or applicable subsidiary (as applicable) and assigning Lender shall have executed and delivered an Affiliated Lender Assignment and Assumption;

(iv) after giving effect to the relevant assignment and to all other assignments to all Affiliated Lenders, the aggregate principal amount of all Term Loans then held by all Affiliated Lenders shall not exceed 25% of the aggregate principal amount of the Term Loans then outstanding (after giving effect to any substantially simultaneous cancellations thereof) (the "Affiliated Lender Cap"); provided that each party hereto acknowledges and agrees that the Administrative Agent shall not be liable for any losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses and disbursements of any kind or nature whatsoever incurred or suffered by any Person in connection with any compliance or non-compliance with this clause (g)(iv) or any purported assignment exceeding the Affiliated Lender Cap (it being understood and agreed that the Affiliated Lender Cap is intended to apply to any Loans made available to Affiliated Lenders by means other than formal assignment (e.g., as a result of an acquisition of another Lender by any Affiliated Lender or the provision of Additional Term Loans by any Affiliated Lender); provided, further, that to the extent that any assignment to any Affiliated Lender would result in the aggregate principal amount of Term Loans held by Affiliated Lenders exceeding the Affiliated Lender Cap (after giving effect to any substantially simultaneous cancellations thereof), the assignment of the relevant excess amount shall be null and void;

(v) in connection with any assignment effected pursuant to a Dutch Auction and/or open market purchase conducted by Holdings, Intermediate Holdings, the Borrower or any of its subsidiaries, no Event of Default shall exist at the time of acceptance of bids for the Dutch Auction or the confirmation of such open market purchase, as applicable;

(vi) by its acquisition of Term Loans, each relevant Affiliated Lender shall be deemed to have acknowledged and agreed that:

(A) the Term Loans held by such Affiliated Lender shall be disregarded in both the numerator and denominator in the calculation of any Required Lender or other Lender vote (and the Term Loans held by such Affiliated Lender shall be deemed to be voted pro rata along with the other Lenders that are not Affiliated Lenders); provided that (x) such Affiliated Lender shall have the right to vote (and the Term Loans held by such Affiliated Lender shall not be so disregarded) with respect to any amendment, modification, waiver, consent or other action that requires the vote of all Lenders or all Lenders directly and adversely affected thereby, as the case may be, and (y) no amendment, modification, waiver, consent or other action shall (1) disproportionately affect such Affiliated Lender in its capacity as a Lender as compared to other Lenders of the same Class that are not Affiliated Lenders or (2) deprive any Affiliated Lender of its share of any payments which the Lenders are entitled to share on a pro rata basis hereunder, in each case without the consent of such Affiliated Lender; and

(B) such Affiliated Lender, solely in its capacity as an Affiliated Lender, will not be entitled to (i) attend (including by telephone) or participate in any meeting or discussion (or portion thereof) among the Administrative Agent or any Lender or among Lenders to which the Loan Parties or their representatives are not invited or (ii) receive any information or material prepared by the Administrative Agent or any Lender or any communication by or among the Administrative Agent and one or more Lenders, except to the extent such information or materials have been made available by the Administrative Agent or any Lender to any Loan Party or its representatives (and in any case, other than the right to receive notices of Borrowings, prepayments and other administrative notices in respect of its Term Loans required to be delivered to Lenders pursuant to Article 2);

(vii) no Affiliated Lender shall be required to represent or warrant that it is not in possession of MNPI with respect to Holdings, Intermediate Holdings, the Borrower and/or its subsidiaries and/or their respective securities in connection with any assignment permitted by this Section 9.05(g);

(viii) (A) For the purpose of voting on any plan of reorganization or plan of liquidation pursuant to any Debtor Relief Laws (a "Bankruptcy Plan"), each Affiliated Lender hereby agrees (x) not to vote on such Bankruptcy Plan, (y) if such Affiliated Lender does vote on such Bankruptcy Plan notwithstanding the restriction in the foregoing clause (x), such vote will be deemed not to be in good faith and shall be "designated" pursuant to Section 1126(e) of the Bankruptcy Code (or any similar provision in any other Debtor Relief Laws), and such vote shall not be counted in determining whether the applicable class has accepted or rejected such Bankruptcy Plan in accordance with Section 1126(e) of the Bankruptcy Code (or any similar provision in any other Debtor Relief Laws) and (z) not to contest any request by any party for a determination by the Bankruptcy Court (or other applicable court of competent jurisdiction) effectuating the foregoing clause (y), in each case under this clause (viii)(A) unless such Bankruptcy Plan adversely affects such Affiliated Lender more than other Term Lenders in any material respect and (B) each Affiliated Lender hereby irrevocably appoints the Administrative Agent (such appointment being coupled with an interest) as such Affiliated Lender and in the name of such Affiliated Lender (solely in respect of Loans therein and not in respect of any other claim or status such Affiliated Lender may otherwise have), from time to time in the Administrative Agent's discretion to take any action and to execute any instrument that the Administrative Agent may deem reasonably necessary or appropriate to carry out the provisions of this clause (viii), including to ensure that any vote of such Affiliated Lender on any Bankruptcy Plan is withdrawn or otherwise not counted.

(h) For the avoidance of doubt, the foregoing limitations shall not be applicable to Debt Fund Affiliates; provided that (i) in connection with any amendment, modification, waiver or other action requiring the consent or approval of Required Lenders, Lenders that are Debt Fund Affiliates shall not be permitted, in the aggregate, to account for more than 49.9% of the amounts actually included in determining whether the threshold in the definition of Required Lenders has been satisfied, and the voting power of each Lender that is a Debt Fund Affiliate shall be reduced, pro rata, to the extent necessary in order to comply with this clause (h) and (ii) any Term Loans acquired by any Debt Fund Affiliate may (but shall not be required to) be contributed to the Borrower or any of its subsidiaries (it being understood that any such Term Loans shall be retired and cancelled immediately upon such contribution); provided that upon any such cancellation, the aggregate outstanding principal amount of the Term Loans shall be deemed reduced, as of the date of such contribution, by the full par value of the aggregate principal amount of the Term Loans so contributed and cancelled, and each principal repayment installment with respect to the Term Loans pursuant to Section 2.07(a) shall be reduced pro rata by the full par value of the aggregate principal amount of Term Loans so contributed and cancelled.

Section 9.06 Survival. All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loan, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent may have had notice or knowledge of any Default or Event of Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect until the Termination Date. The provisions of Sections 2.12, 2.13 2.14, 9.03 and 9.13 and Article 8 shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the occurrence of the Termination Date or the termination of this Agreement or any provision hereof but in each case, subject to the limitations set forth in this Agreement.

Section 9.07 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents, the Intercreditor Agreement, the Fee Letter and any separate letter agreements with respect to fees payable to the Administrative Agent constitute the entire agreement among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. This Agreement shall become effective when it has been executed by Holdings, Intermediate Holdings, the Borrower and the Administrative Agent and when the Administrative Agent has received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or by email as a ".pdf" or ".tif" attachment shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 9.08 Severability. To the extent permitted by applicable Requirements of Law, any provision of any Loan Document held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

Section 9.09 Right of Setoff. At any time when an Event of Default exists, upon the written consent of the Administrative Agent, the Administrative Agent and each Lender is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable Requirements of Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other obligations (in any currency) at any time owing by the Administrative Agent or such Lender (including by branches and agencies of the Administrative Agent or such Lender, wherever located) to or for the credit or the account of the Borrower or any Loan Party against any of and all the Secured Obligations held by the Administrative Agent or such Lender, irrespective of whether or not the Administrative Agent or such Lender shall have made any demand under the Loan Documents and although such obligations may be contingent or unmatured or are owed to a branch or office of such Lender different than the branch or office holding such deposit or obligation on such Indebtedness. Any applicable Lender shall promptly notify the Borrower and the Administrative Agent of such set-off or application; provided that any failure to give or any delay in giving such notice shall not affect the validity of any such set-off or application under this Section. The rights of each Lender and the Administrative Agent under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender or the Administrative Agent may have.

Section 9.10 Governing Law; Jurisdiction; Consent to Service of Process.

(a) THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (OTHER THAN AS EXPRESSLY SET FORTH IN ANY OTHER LOAN DOCUMENT) AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (OTHER THAN AS EXPRESSLY SET FORTH IN ANY OTHER LOAN DOCUMENT), WHETHER IN TORT, CONTRACT (AT LAW OR IN EQUITY) OR OTHERWISE, SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK; PROVIDED, THAT (I) THE INTERPRETATION OF THE DEFINITION OF "MATERIAL ADVERSE EFFECT" AS DEFINED IN THE ACQUISITION AGREEMENT AND THE DETERMINATION OF WHETHER A MATERIAL ADVERSE EFFECT (AS DEFINED IN THE ACQUISITION AGREEMENT) HAS OCCURRED, (II) THE DETERMINATION OF THE ACCURACY OF ANY SPECIFIED ACQUISITION AGREEMENT REPRESENTATION AND WHETHER AS A RESULT OF ANY INACCURACY THEREOF MERGER SUB OR ITS APPLICABLE AFFILIATE HAS A RIGHT TO TERMINATE ITS OBLIGATIONS UNDER THE ACQUISITION AGREEMENT OR DECLINE TO CONSUMMATE THE ACQUISITION AND (III) THE DETERMINATION OF WHETHER THE ACQUISITION HAS BEEN CONSUMMATED IN ACCORDANCE WITH THE TERMS OF THE ACQUISITION AGREEMENT AND, IN ANY CASE, ANY CLAIM OR DISPUTE ARISING OUT OF ANY SUCH INTERPRETATION OR DETERMINATION OR ANY ASPECT THEREOF, SHALL IN EACH CASE BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF DELAWARE, WITHOUT GIVING EFFECT TO PRINCIPLES OR RULES OF CONFLICT OF LAWS TO THE EXTENT SUCH PRINCIPLES OR RULES WOULD REQUIRE OR PERMIT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION.

(b) EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF ANY U.S. FEDERAL OR NEW YORK STATE COURT SITTING IN THE BOROUGH OF MANHATTAN, IN THE CITY OF NEW YORK (OR ANY APPELLATE COURT THEREFROM) OVER ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENT AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING SHALL (EXCEPT AS PERMITTED BELOW) BE HEARD AND DETERMINED IN SUCH NEW YORK STATE OR, TO THE EXTENT PERMITTED BY APPLICABLE REQUIREMENTS OF LAW, FEDERAL COURT. EACH PARTY HERETO AGREES THAT SERVICE OF ANY PROCESS, SUMMONS, NOTICE OR DOCUMENT BY REGISTERED MAIL ADDRESSED TO SUCH PERSON SHALL BE EFFECTIVE SERVICE OF PROCESS AGAINST SUCH PERSON FOR ANY SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT; PROVIDED THAT WITH RESPECT TO ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THE ACQUISITION AGREEMENT OR THE TRANSACTIONS CONTEMPLATED THEREBY WHICH DOES NOT INVOLVE ANY CLAIMS AGAINST THE AGENT, THE ARRANGERS, THE LENDERS OR ANY INDEMNIFIED PERSON, THIS SENTENCE SHALL NOT OVERRIDE ANY JURISDICTION PROVISION IN THE ACQUISITION AGREEMENT. EACH PARTY HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY APPLICABLE REQUIREMENTS OF LAW. EACH PARTY HERETO AGREES THAT THE ADMINISTRATIVE AGENT RETAINS THE RIGHT TO BRING PROCEEDINGS AGAINST ANY LOAN PARTY IN THE COURTS OF ANY OTHER JURISDICTION SOLELY IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS UNDER ANY COLLATERAL DOCUMENT.

(c) EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT IT MAY LEGALLY AND EFFECTIVELY DO SO, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (b) OF THIS SECTION. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY CLAIM OR DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION, SUIT OR PROCEEDING IN ANY SUCH COURT.

(d) TO THE EXTENT PERMITTED BY APPLICABLE REQUIREMENTS OF LAW, EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS UPON IT AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL (OR ANY SUBSTANTIALLY SIMILAR FORM OF MAIL) DIRECTED TO IT AT ITS ADDRESS FOR NOTICES AS PROVIDED FOR IN SECTION 9.01. EACH PARTY HERETO HEREBY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER OR UNDER ANY LOAN DOCUMENT THAT SERVICE OF PROCESS WAS INVALID AND INEFFECTIVE. NOTHING IN THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT WILL AFFECT THE RIGHT OF ANY PARTY TO THIS AGREEMENT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE REQUIREMENTS OF LAW.

Section 9.11 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE REQUIREMENTS OF LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY SUIT, ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY 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 BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 9.12 Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

Section 9.13 Confidentiality. Each of the Administrative Agent, each Lender and each Arranger agrees (and each Lender agrees to cause its SPC, if any) to maintain the confidentiality of the Confidential Information (as defined below), except that Confidential Information may be disclosed (a) to its and its Affiliates' directors (or equivalent managers), officers, employees, independent auditors or other experts and advisors, including accountants, legal counsel and other advisors (collectively, the "Representatives") on a "need to know" basis solely in connection with the transactions contemplated hereby and who are informed of the confidential nature of the Confidential Information and are or have been advised of their obligation to keep the Confidential Information of this type confidential; provided that such Person shall be responsible for its Affiliates' and their Representatives' compliance with this paragraph; provided, further, that unless the Borrower otherwise consents, no such disclosure shall be made by the Administrative Agent, any Arranger, any Lender or any Affiliate or Representative thereof to any Affiliate or Representative of the Administrative Agent, any Arranger or any Lender that (i) is engaged as a principal primarily in private equity, mezzanine financing or venture capital or (ii) is a Disqualified Institution, (b) upon the demand or request of any regulatory or governmental authority (including any self-regulatory body) purporting to have jurisdiction over such Person or its Affiliates (in which case such Person shall, (i) except with respect to any audit or examination conducted by bank accountants or any Governmental Authority or regulatory or self-regulatory authority exercising examination or regulatory authority, to the extent permitted by law, inform the Borrower promptly in advance thereof and (ii) use commercially reasonable efforts to ensure that any such information so disclosed is accorded confidential treatment), (c) to the extent compelled by legal process in, or reasonably necessary to, the defense of such legal, judicial or administrative proceeding, in any legal, judicial or administrative proceeding or otherwise as required by applicable Requirements of Law, rule or regulation (in which case such Person shall (i) to the extent permitted by law, inform the Borrower promptly in advance thereof and (ii) use commercially reasonable efforts to ensure that any such information so disclosed is accorded confidential treatment), (d) to any other party to this Agreement, (e) subject to an acknowledgment and agreement by the relevant recipient that the Confidential Information is being disseminated on a confidential basis (on substantially the terms set forth in this paragraph or as otherwise reasonably acceptable to the Borrower and the Administrative Agent, including as set forth in the Information Memorandum) in accordance with the standard syndication process of the Arrangers or market standards for dissemination of the relevant type of information, which shall in any event require "click through" or other affirmative action on the part of the recipient to access the Confidential Information and acknowledge its confidentiality obligations in respect thereof, to (i) any Eligible Assignee of or Participant in, or any prospective Eligible Assignee of or prospective Participant in, any of its rights or obligations under this Agreement, including any SPC (in each case other than a Disqualified Institution), (ii) any pledgee referred to in Section 9.05, (iii) any actual or prospective, direct or indirect contractual counterparty (or its advisors) to any Derivative Transaction (including any credit default swap) or similar derivative product (other than a Disqualified Institution) relating to the Loan Parties and their obligations and (iv) subject to the Borrower's prior approval of the information to be disclosed (not to be unreasonably withheld), to Moody's or S&P in connection with obtaining or maintaining ratings as required under Section 5.13, (f) with the prior written consent of the Borrower, (g) to the extent the Confidential Information becomes publicly available other than as a result of a breach of this Section by such Person, its Affiliates or their respective Representatives and (h) to the CUSIP bureau, solely to the extent such Confidential Information is necessary to obtain CUSIP numbers in respect of the Term Facility and in consultation with the Borrower. For purposes of this Section, "Confidential Information" means all information relating to the Sponsor, Buyer, Holdings, Intermediate Holdings, the Borrower and/or any of its subsidiaries and their respective businesses or the Transactions (including any information obtained by the Administrative Agent, any Lender, or any Arranger, or any of their respective Affiliates or Representatives, based on a review of the books and records relating to Holdings, Intermediate Holdings, the Borrower and/or any of its subsidiaries and their respective Affiliates from time to time, including prior to the date hereof) other than any such information that is publicly available to the Administrative Agent or any Arranger, or Lender on a non-confidential basis prior to disclosure by Holdings, Intermediate Holdings, the Borrower or any of its subsidiaries. In addition, the Administrative Agent or any Arranger may disclose the existence of this Agreement and the information consisting of the Closing Date, the identity of the Borrower, the structure, type and amount of the Term Facility and the allotted roles to market data collectors and similar service providers to the lending industry. For the avoidance of doubt, in no event shall any disclosure of the Confidential Information be made to any Disqualified Institution (which was a Disqualified Institution at the time such disclosure was made).

Section 9.14 No Fiduciary Duty. Each of the Administrative Agent, the Arrangers, each Lender and their respective Affiliates (collectively, solely for purposes of this paragraph, the "Lenders"), may have economic interests that conflict with those of the Loan Parties, their stockholders and/or their respective affiliates. Each Loan Party agrees that nothing in the Loan Documents or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Lender, on the one hand, and such Loan Party, its respective stockholders or its respective affiliates, on the other. Each Loan Party acknowledges and agrees that: (i) the transactions contemplated by the Loan Documents (including the exercise of rights and remedies hereunder and thereunder) are arm's-length commercial transactions between the Lenders, on the one hand, and the Loan Parties, on the other, and (ii) in connection therewith and with the process leading thereto, (x) no Lender, in its capacity as such, has assumed an advisory or fiduciary responsibility in favor of any Loan Party, its respective stockholders or its respective affiliates with respect to the transactions contemplated hereby (or the exercise of rights or remedies with respect thereto) or the process leading thereto (irrespective of whether any Lender has advised, is currently advising or will advise any Loan Party, its respective stockholders or its respective Affiliates on other matters) or any other obligation to any Loan Party except the obligations expressly set forth in the Loan Documents and (y) each Lender, in its capacity as such, is acting solely as principal and not as the agent or fiduciary of such Loan Party, its respective management, stockholders, creditors or any other Person. Each Loan Party acknowledges and agrees that such Loan Party has consulted its own legal, tax and financial advisors to the extent it deemed appropriate and that it is responsible for making its own independent judgment with respect to such transactions and the process leading thereto.

Section 9.15 Several Obligations. The respective obligations of the Lenders hereunder are several and not joint and the failure of any Lender to make any Loan or perform any of its obligations hereunder shall not relieve any other Lender from any of its obligations hereunder.

Section 9.16 USA PATRIOT Act. Each Lender that is subject to the requirements of the USA PATRIOT Act hereby notifies the Loan Parties that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of such Loan Party and other information that will allow such Lender to identify such Loan Party in accordance with the USA PATRIOT Act.

Section 9.17 Disclosure of Agent Conflicts. Each Loan Party and each Lender hereby acknowledge and agree that the Administrative Agent and/or its Affiliates from time to time may hold investments in, make other loans to or have other relationships with any of the Loan Parties and their respective Affiliates.

Section 9.18 Appointment for Perfection. Each Lender hereby appoints each other Lender as its agent for the purpose of perfecting Liens for the benefit of the Administrative Agent and the Lenders, in assets which, in accordance with Article 9 of the UCC or any other applicable law can be perfected only by possession. If any Lender (other than the Administrative Agent) obtains possession of any Collateral, such Lender shall notify the Administrative Agent thereof and, promptly upon the Administrative Agent's request therefor, shall deliver such Collateral to the Administrative Agent or otherwise deal with such Collateral in accordance with the Administrative Agent's instructions.

Section 9.19 Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively the "Charged Amounts"), shall exceed the maximum lawful rate (the "Maximum Rate") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable Requirements of Law, the rate of interest payable in respect of such Loan hereunder, together with all Charged Amounts payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charged Amounts that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charged Amounts payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

Section 9.20 Conflicts. Notwithstanding anything to the contrary contained herein or in any other Loan Document, in the event of any conflict or inconsistency between this Agreement and any other Loan Document, the terms of this Agreement shall govern and control; provided that in the case of any conflict or inconsistency between the Intercreditor Agreement and any Loan Document, the terms of the Intercreditor Agreement shall govern and control.

Section 9.21 Release of Guarantors. Notwithstanding anything in Section 9.02(b) to the contrary, (a) any Subsidiary Guarantor shall automatically be released from its obligations hereunder (and its Loan Guaranty shall be automatically released) (i) upon the consummation of any permitted transaction or series of related transactions if as a result thereof such Subsidiary Guarantor ceases to be a Restricted Subsidiary (or becomes an Excluded Subsidiary (other than pursuant to clause (a) of the definition thereof) as a result of a single transaction or series of related transactions permitted hereunder) and/or (ii) upon the occurrence of the Termination Date. In connection with any such release, the Administrative Agent shall promptly execute and deliver to the relevant Loan Party, at such Loan Party's expense, all documents that such Loan Party shall reasonably request to evidence termination or release. Any execution and delivery of any document pursuant to the preceding sentence of this Section 9.21 shall be without recourse to or warranty by the Administrative Agent (other than as to the Administrative Agent's authority to execute and deliver such documents).

Section 9.22 Intercreditor Agreement. REFERENCE IS MADE TO THE INTERCREDITOR AGREEMENT. EACH LENDER HEREUNDER AGREES THAT IT WILL BE BOUND BY AND WILL TAKE NO ACTIONS CONTRARY TO THE PROVISIONS OF THE INTERCREDITOR AGREEMENT AND AUTHORIZES AND INSTRUCTS THE ADMINISTRATIVE AGENT TO ENTER INTO THE INTERCREDITOR AGREEMENT AS "TERM LOAN ADMINISTRATIVE AGENT" AND ON BEHALF OF SUCH LENDER. THE PROVISIONS OF THIS SECTION 9.22 ARE NOT INTENDED TO SUMMARIZE ALL RELEVANT PROVISIONS OF THE INTERCREDITOR AGREEMENT, THE FORM OF WHICH IS ATTACHED AS AN EXHIBIT TO THIS AGREEMENT. REFERENCE MUST BE MADE TO THE INTERCREDITOR AGREEMENT ITSELF TO UNDERSTAND ALL TERMS AND CONDITIONS THEREOF. EACH LENDER IS RESPONSIBLE FOR MAKING ITS OWN ANALYSIS AND REVIEW OF THE INTERCREDITOR AGREEMENT AND THE TERMS AND PROVISIONS THEREOF, AND NEITHER THE ADMINISTRATIVE AGENT NOR ANY OF ITS AFFILIATES MAKES ANY REPRESENTATION TO ANY LENDER AS TO THE SUFFICIENCY OR ADVISABILITY OF THE PROVISIONS CONTAINED IN THE INTERCREDITOR AGREEMENT. THE FOREGOING PROVISIONS ARE INTENDED AS AN INDUCEMENT TO THE LENDERS UNDER THE ABL CREDIT AGREEMENT TO EXTEND CREDIT THEREUNDER AND SUCH LENDERS ARE INTENDED THIRD PARTY BENEFICIARIES OF SUCH PROVISIONS AND THE PROVISIONS OF THE INTERCREDITOR AGREEMENT.

NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, THE LIENS AND SECURITY INTERESTS GRANTED TO THE ADMINISTRATIVE AGENT PURSUANT TO THE LOAN DOCUMENTS IN ANY COLLATERAL AND THE EXERCISE OF ANY RIGHT OR REMEDY BY THE ADMINISTRATIVE AGENT WITH RESPECT TO ANY COLLATERAL ARE SUBJECT TO THE 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.

Section 9.23 Acknowledgement and Consent to Bail-In of EEA Financial Institutions. Notwithstanding anything to the contrary in this Agreement or in any other agreement, arrangement or understanding between the parties hereto, each party hereto acknowledges that that any liability of any EEA Financial Institution under this Agreement, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and each party hereto agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

CONCRETE PUMPING HOLDINGS ACQUISITION CORP., as Holdings

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer

CONCRETE PUMPING INTERMEDIATE ACQUISITION CORP., as Intermediate Holdings

By: /s/ Tariq Osman
Name: Tariq Osman
Title: President

INDUSTREA ACQUISITION CORP., as Buyer

By: /s/ Tariq Osman
Name: Tariq Osman
Title: Executive Vice President

CONCRETE PUMPING MERGER SUB INC. (which on the Closing Date shall be merged with and into the existing CONCRETE PUMPING HOLDINGS, INC., with CONCRETE PUMPING HOLDINGS, INC. as the surviving company), as the Borrower

By: /s/ Tariq Osman
Name: Tariq Osman
Title: President

The undersigned hereby confirms that, as a result of its merger with CONCRETE PUMPING MERGER SUB INC., it hereby assumes all of the rights and obligations of CONCRETE PUMPING MERGER SUB INC. under this Credit Agreement (which assumption is in furtherance of, and not in lieu of, its assumption or deemed assumption by operation of law), and hereby agrees to be joined to the Credit Agreement as the Borrower thereunder and that all references to the "Borrower" shall be deemed to be references to the undersigned.

CONCRETE PUMPING HOLDINGS, INC.

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer

[Signature Page to Project Boom Credit Agreement]

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH, as Administrative Agent

By: /s/ Vipul Dhadda
Name: Vipul Dhadda
Title: Authorized Signatory

By: /s/Brady Bingham
Name: Brady Bingham
Title: Authorized Signatory

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH, as Lender

By: /s/ Vipul Dhadda
Name: Vipul Dhadda
Title: Authorized Signatory

By: /s/Brady Bingham
Name: Brady Bingham
Title: Authorized Signatory

[Signature Page to Project Boom Credit Agreement]

Exhibit 10.30

EXECUTION VERSION

CREDIT AGREEMENT

by and among

WELLS FARGO BANK, NATIONAL ASSOCIATION,

as Agent, Sole Lead Arranger and Sole Bookrunner

THE LENDERS THAT ARE PARTIES HERETO

as the Lenders,

WELLS FARGO CAPITAL FINANCE (UK) LIMITED,
as UK Security Agent,

CONCRETE PUMPING HOLDINGS ACQUISITION CORP.
(to be renamed Concrete Pumping Holdings, Inc. upon consummation
of the Concrete Pumping Acquisition),
as Holdings,

CONCRETE PUMPING INTERMEDIATE ACQUISITION CORP.,
as Intermediate Holdings,

CONCRETE PUMPING MERGER SUB INC.
(to be merged with and into Concrete Pumping Holdings, Inc., which is to be renamed
Brundage Bone Concrete Pumping Holdings Inc.
upon consummation of the Concrete Pumping Acquisition),
BRUNDAGE-BONE CONCRETE PUMPING, INC.,
and
ECO-PAN, INC.,
as the US Borrowers,

and

CAMFAUD CONCRETE PUMPS LIMITED,
and
PREMIER CONCRETE PUMPING LIMITED,
as the UK Borrowers

Dated as of December 6, 2018

TABLE OF CONTENTS

TABLE OF CONTENTS
(continued)

TABLE OF CONTENTS
(continued)

TABLE OF CONTENTS
(continued)

TABLE OF CONTENTS
(continued)

EXHIBITS AND SCHEDULES

CREDIT AGREEMENT

THIS CREDIT AGREEMENT (this "Agreement"), is entered into as of December 6, 2018, by and among the lenders identified on the signature pages hereof (each of such lenders, together with its successors and permitted assigns, is referred to hereinafter as a "Lender", as that term is hereinafter further defined), **WELLS FARGO BANK, NATIONAL ASSOCIATION** , a national banking association, as administrative agent for each member of the Lender Group and the Bank Product Providers (in such capacity, together with its successors and assigns in such capacity, "Agent") and as sole lead arranger and sole bookrunner (the "Lead Arranger"), **WELLS FARGO CAPITAL FINANCE (UK) LIMITED** , a private limited company incorporated and registered under the laws of England a Wales with company numbers 02656007, as security agent and trustee for the Secured Parties (as defined below) (in such capacity, together with its successors and assigns in such capacity, "UK Security Agent") **CONCRETE PUMPING HOLDINGS ACQUISITION CORP.** (to be renamed Concrete Pumping Holdings, Inc. upon consummation of the Concrete Pumping Acquisition (as defined below), a Delaware corporation ("Holdings"), **CONCRETE PUMPING INTERMEDIATE ACQUISITION CORP.** , a Delaware corporation ("Intermediate Holdings"), **CONCRETE PUMPING MERGER SUB INC.**, a Delaware corporation ("Concrete Merger Sub"), which upon the consummation of the Concrete Pumping Acquisition will be merged with and into the existing **CONCRETE PUMPING HOLDINGS, INC.**, a Delaware corporation (which is to be renamed Brundage Bone Concrete Pumping Holdings Inc. upon consummation of the Concrete Pumping Acquisition) (the "Target"); **BRUNDAGE-BONE CONCRETE PUMPING INC.**, a Colorado corporation ("Brundage Pumping"), and **ECO-PAN, INC.**, a Colorado corporation ("Eco-Pan US"; and together with Concrete Merger Sub, the Target, Brundage Pumping and each other Person that from time to time that becomes party hereto as a US Borrower in accordance with the terms hereof by executing the form of Joinder Agreement attached hereto as Exhibit B-2, are referred to hereinafter each individually as a "US Borrower", and individually and collectively, jointly and severally, as the "US Borrowers"), **CAMFAUD CONCRETE PUMPS LIMITED**, a private limited company incorporated and registered under the laws of England and Wales with Company Number 02635232 ("Camfaud Concrete") and **PREMIER CONCRETE PUMPING LIMITED**, a private limited company incorporated and registered under the laws of England and Wales with Company Number 01714938 ("Premier Concrete", and together Camfaud Concrete, and each other Person that from time to time that becomes party hereto as a UK Borrower in accordance with the terms hereof by executing the form of Joinder Agreement attached hereto as Exhibit B-2, are referred to hereinafter each individually as a "UK Borrower", and individually and collectively, jointly and severally, as the "UK Borrowers; the US Borrowers and the UK Borrowers are hereinafter referred to each individually as a "Borrower" and individually and collectively as the "Borrowers").

RECITALS

WHEREAS, Holdings was organized by Industrea Acquisition Corp., a Delaware corporation (the "Buyer") to acquire (the "Concrete Pumping Acquisition") the Target pursuant to the terms of that certain Agreement and Plan of Merger, dated as of September 7, 2018 (as the same may be amended, supplemented or modified to the extent permitted by this Agreement, the "Concrete Pumping Acquisition Agreement") by and among Holdings, the Buyer, Intermediate Holdings, Concrete Merger Sub, Industrea Acquisition Merger Sub Inc., a Delaware corporate and a wholly owned subsidiary of the Buyer;

WHEREAS, pursuant to the terms of the Concrete Pumping Acquisition Agreement, upon the consummation of the Concrete Pumping Acquisition, Concrete Merger Sub will merge (the "Merger") with and into the Target with the Target being the survivor;

WHEREAS, the Concrete Pumping Acquisition shall be consummated contemporaneously with the execution and delivery of this Agreement, and Concrete Merger Sub shall be a US Borrower under this Agreement on the date hereof with the Target, Brundage and Eco-Pan US being US Borrowers hereunder immediately after the consummation of the Concrete Pumping Acquisition, and Camfaud Concrete and Premier Concrete being the UK Borrowers immediately after the consummation of the Concrete Pumping Acquisition;

WHEREAS, in connection with the Concrete Pumping Acquisition, Holdings will enter into one or more subscription agreements with certain institutional and accredited investors and other investors identified to the Lead Arranger in writing prior to the Closing Date (collectively, the "Closing Date Investors") and consummate the transactions on the Closing Date (as defined below) (including "private investment in public equity" transactions and transactions that "backstop" redemptions by the Buyer's shareholders), pursuant to which the Closing Date Investors will purchase Equity Interests (other than Disqualified Equity Interests) in the form of common stock or convertible preferred or other equity (which such convertible preferred or other equity shall be reasonably satisfactory to Agent; provided, it is agreed that the preferred equity contemplated to be issued by Holdings to one or more funds and accounts of Nuveen Alternative Advisors, LLC ("Nuveen") pursuant to that certain Subscription Agreement dated as of September 7, 2018 by and among, inter alia, Nuveen and Holdings and the related term sheet as in effect on September 7, 2018 pursuant to which Nuveen shall make an equity contribution to Holdings in the amount of $25,000,000 (the "Closing Date Investor Equity Contribution");

WHEREAS, in connection with the Concrete Pumping Acquisition, the Sponsor (as defined below) (together with the Closing Date Investors, the Rolling Investors (as defined below) and all other co-investors on the Closing Date, collectively, the "Investors") will purchase a number of Equity Interests (other than Disqualified Equity Interests) of Holding's (in the form of common stock or convertible preferred or other equity reasonably satisfactory to Agent) for an aggregate purchase price not less than $27,400,000 (the "Sponsor Equity Contribution" and together with the Closing Date Investor Equity Contribution, collectively, the "Equity Contributions");

WHEREAS, the Equity Contributions will be made in cash in an aggregate amount that, when taken together with the cash held in trust by the Buyer in the aggregate amount of approximately $234,600,000 (less any redemptions by the Buyer's shareholders) (the "Buyer Trust Funds") (it being understood and agreed that redemptions by the Buyer's shareholders will first reduce the amount of cash transferred to the consolidated balance sheet of Holdings on the Closing Date) and the fair market value (with fair market value deemed to be the actual redemption price of such Equity Interests as of the Closing Date (but not less than $10.20 per share)) of the Equity Interests of the Target's existing direct or indirect equity holders and/or members of management (collectively, the " Rolling Investors") that will be retained, rolled over, converted or re-invested as Equity Interests of Holdings (other than Disqualified Equity Interests) in the form of common stock or convertible preferred or other equity (which such convertible preferred or other equity shall be reasonably satisfactory to Agent), if any, on the Closing Date (the " Rollover Equity") will constitute an aggregate amount not less than 37.5% (the "Minimum Equity Contribution Percentage") of the sum of (A) the gross proceeds of the term loans made under the Term Loan Facility (as defined below) made on the Closing Date, (B) the proceeds of Loans incurred hereunder on the Closing Date used to finance a portion of the Transactions (as defined below) (excluding, in the case of clauses (A) and (B) above, the proceeds of any term loans made under the Term Loan Facility or Loans hereunder to fund original issue discount or any upfront fees as result of the application of the "flex" provisions contained in the Term Loan Fee Letter (as defined below), (C) the Equity Contributions, (D) the Buyer Trust Funds, and (E) the Rollover Equity;

WHEREAS, to effect the Concrete Pumping Acquisition, in addition to the Equity Contributions, the Rollover Equity, and the Buyer Trust Funds, the Target has requested that the Term Loan Lenders provide a term loan B facility in an amount equal to $357,000,000 (the "Term Loan Facility") to the Target, and the Term Loan Lenders, subject to the terms and conditions of the Term Loan Facility Agreement (as defined below), have agreed to provide such Term Loan Facility; and

WHEREAS, the Borrowers have further requested that the Lenders provide a revolving credit facility in an amount equal to $60,000,000 to consummate the Transactions and for ongoing working capital and general corporate purposes, and the Lenders have agreed to provide such a revolving credit facility and the Issuing Bank has indicated its willingness to provide a letter of credit facility (as a sub-facility of such revolving credit facility), in each case, subject to the terms and conditions of this Agreement.

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

1. **DEFINITIONS AND CONSTRUCTION.**

1.1 **Definitions.** Capitalized terms used in this Agreement shall have the meanings specified therefor on Schedule 1.1.

1.2 **Accounting Terms.**

(a) All accounting terms not specifically defined herein shall be construed in accordance with GAAP; provided, that if Borrowers notify Agent that Borrowers request an amendment to any provision hereof to eliminate the effect of any Accounting Change occurring after the Closing Date or in the application thereof on the operation of such provision (or if Agent notifies Borrowers that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such Accounting Change or in the application thereof, then Agent and Borrowers agree that they will negotiate in good faith amendments to the provisions of this Agreement that are directly affected by such Accounting Change with the intent of having the respective positions of the Lenders and Borrowers after such Accounting Change conform as nearly as possible to their respective positions immediately before such Accounting Change took effect and, until any such amendments have been agreed upon and agreed to by the Required Lenders, the provisions in this Agreement shall be calculated as if no such Accounting Change had occurred. When used herein, the term "financial statements" shall include the notes and schedules thereto. Whenever the term "Borrowers" is used in respect of the Fixed Charge Coverage Ratio or a related definition, it shall be understood to mean Holdings and its Restricted Subsidiaries on a consolidated basis, unless the context clearly requires otherwise. Notwithstanding anything to the contrary contained herein, (a) all financial statements delivered hereunder shall be prepared, and all financial covenants contained herein shall be calculated, without giving effect to any election under the Statement of Financial Accounting Standards Board's Accounting Standards Codification Topic 825 (or any similar accounting principle) permitting a Person to value its financial liabilities or Indebtedness at the fair value thereof, and (b) the term "unqualified opinion" as used herein to refer to opinions or reports provided by accountants shall mean an opinion or report that is (i) unqualified, and (ii) does not include any explanation, supplemental comment, or other comment concerning the ability of the applicable Person to continue as a going concern or concerning the scope of the audit.

(b) Notwithstanding any changes in GAAP after the Closing Date, any lease of the Borrowers or their Subsidiaries that would be characterized as an operating lease under GAAP in effect on the Closing Date (whether such lease is entered into before or after the Closing Date) shall not constitute a Capital Lease under this Agreement or any other Loan Document as a result of such changes in GAAP unless otherwise agreed to in writing by the Borrowers and Agent.

1.3 **Code.** Any terms used in this Agreement that are defined in the Code shall be construed and defined as set forth in the Code unless otherwise defined herein; provided, that to the extent that the Code is used to define any term herein and such term is defined differently in different Articles of the Code, the definition of such term contained in Article 9 of the Code shall govern.

1.4 **Construction.** Unless the context of this Agreement or any other Loan Document clearly requires otherwise, references to the plural include the singular, references to the singular include the plural, the terms "includes" and "including" are not limiting, and the term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or." The words "hereof," "herein," "hereby," "hereunder," and similar terms in this Agreement or any other Loan Document refer to this Agreement or such other Loan Document, as the case may be, as a whole and not to any particular provision of this Agreement or such other Loan Document, as the case may be. Section, subsection, clause, schedule, and exhibit references herein are to this Agreement unless otherwise specified. Any reference in this Agreement or in any other Loan Document to any agreement, instrument, or document shall include all alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, joinders, and supplements, thereto and thereof, as applicable (subject to any restrictions on such alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, joinders, and supplements set forth herein). 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. Any reference herein or in any other Loan Document to the satisfaction, repayment, or payment in full of the Obligations shall mean (a) the payment or repayment in full in immediately available funds of (i) the principal amount of, and interest accrued and unpaid with respect to, all outstanding Loans, together with the payment of any premium applicable to the repayment of the Loans, (ii) all Lender Group Expenses that have accrued and are unpaid regardless of whether demand has been made therefor, and (iii) all fees or charges that have accrued hereunder or under any other Loan Document (including the Letter of Credit Fee and the Unused Line Fee) and are unpaid, (b) in the case of contingent reimbursement obligations with respect to Letters of Credit, providing Letter of Credit Collateralization, (c) in the case of obligations with respect to Bank Products (other than Hedge Obligations), providing Bank Product Collateralization, (d) the receipt by Agent of cash collateral in order to secure any other contingent Obligations for which a claim or demand for payment has been made on or prior to such time or in respect of matters or circumstances known to Agent or a Lender at such time that are reasonably expected to result in any loss, cost, damage, or expense (including attorneys' fees and legal expenses), such cash collateral to be in such amount as Agent reasonably determines is appropriate to secure such contingent Obligations, (e) the payment or repayment in full in immediately available funds of all other outstanding Obligations (including the payment of any termination amount then applicable (or which would or could become applicable as a result of the repayment of the other Obligations) under Hedge Agreements provided by Hedge Providers) other than (i) unasserted contingent indemnification Obligations, (ii) any Bank Product Obligations (other than Hedge Obligations) that, at such time, are allowed by the applicable Bank Product Provider to remain outstanding without being required to be repaid or cash collateralized, and (iii) any Hedge Obligations that, at such time, are allowed by the applicable Hedge Provider to remain outstanding without being required to be repaid, and (f) the termination of all of the Commitments of the Lenders. Any reference herein to any Person shall be construed to include such Person's successors and assigns. Any requirement of a writing contained herein or in any other Loan Document shall be satisfied by the transmission of a Record.

1.5 **Exchange Rates; Applicable Currency**. For purposes of this Agreement and the other Loan Documents, the Dollar Equivalent of any Revolving Loans, Letters of Credit, other Obligations and other references to amounts denominated in a currency other than Dollars shall be determined in accordance with the terms of this Agreement. Such Dollar Equivalent shall become effective as of such Revaluation Date for such Revolving Loans, Letters of Credit and other Obligations and shall be the Dollar Equivalent employed in converting any amounts between the applicable currencies until the next Revaluation Date to occur for such Revolving Loans, Letters of Credit and other Obligations. Except as otherwise expressly provided herein, the applicable amount of any currency for purposes of the Loan Documents (including for purposes of financial statements and all calculations in connection with the covenants, including the financial covenant) shall be the Dollar Equivalent thereof.

1.6 **Time References.** Unless the context of this Agreement or any other Loan Document clearly requires otherwise, all references to time of day refer to Pacific standard time or Pacific daylight saving time, as in effect in Los Angeles, California on such day. For purposes of the computation of a period of time from a specified date to a later specified date, unless otherwise expressly provided, the word "from" means "from and including" and the words "to" and "until" each means "to and including"; provided that, with respect to a computation of fees or interest payable to Agent or any Lender, such period shall in any event consist of at least one full day.

1.7 **Schedules and Exhibits.** All of the schedules and exhibits attached to this Agreement shall be deemed incorporated herein by reference.

1.8 **Pro Forma Calculations and Limited Condition Transactions**. When (a) determining compliance with any provision of the Loan Documents which requires the calculation of a financial ratio (including without limitation, *Article VII* of this Agreement), (b) determining compliance with representations, warranties, Defaults or Events of Default (other than compliance with the conditions set forth in Sections 3.1 and 3.2 of this Agreement) or (c) testing availability under any baskets set forth in this Agreement (including baskets measured as a percentage of Consolidated Adjusted EBITDA or Consolidated Total Assets), in each case, in connection with a Limited Condition Transaction, in each case, at the option of the Administrative Borrower (the Administrative Borrower's election to exercise such option, an "LCT Election"), the relevant ratios, compliance requirements and basket availability shall be determined as of the date the definitive Limited Condition Transaction agreement for such Limited Condition Transaction is entered into (the "LCT Test Date") and if, after giving *pro forma* effect to the Limited Condition Transaction and any actions or transactions related thereto (including any incurrence of Indebtedness and the use of proceeds thereof), the Borrowers would have been permitted to take such actions or consummate such transactions on the relevant LCT Test Date in compliance with such ratio, test or basket (and any related requirements and conditions), such ratio, test or basket (and any related requirements and conditions) shall be deemed to have been complied with (or satisfied) for all purposes; provided, that any Excess Availability under this Agreement must be tested at the time of the consummation of such Limited Condition Transaction. Without limiting the foregoing, in the case of a Specified Transaction in connection with a Limited Condition Transaction, at the Administrative Borrower's option, the relevant ratios and baskets shall be determined as of the LCT Test Date as if the acquisition or other transaction and other *pro forma* events in connection therewith were consummated on such date; provided that if the Administrative Borrower has made such an election, in connection with the subsequent calculation of any ratio or basket with respect to any Specified Transaction on or following such date and prior to the earlier of the date on which such Limited Condition Transaction is consummated or the Limited Condition Transaction agreement for such acquisition is terminated, any such ratio or basket shall be calculated on a *pro forma* basis assuming such acquisition, prepayment, Restricted Payment and other *pro forma* events in connection therewith (including any incurrence of Indebtedness (other than an Incremental Revolving Commitment)) have been consummated, except that Consolidated Adjusted EBITDA, assets and Consolidated Net Income of any target of such acquisition can only be used in the determination of the relevant ratios and baskets if and when such acquisition is closed; and provided further that, (1) if the Administrative Borrower elects to have such determinations occur at the time of entry into such definitive agreement, (x) the Indebtedness to be incurred (and any associated Lien) and the use of proceeds thereof (and the consummation of any acquisition or Investment) shall be deemed incurred and/or applied at the time of such election and outstanding thereafter for purposes of *pro forma* compliance with any applicable ratio in this Agreement, in each case, unless the underlying transaction is terminated or the time period for consummation thereof expires, and (y) such Limited Condition Transaction must actually be consummated by the earlier of (A) 180 days after the execution of the applicable purchase agreement and (B) the applicable drop-dead date (as extended), or (2) otherwise, any financial ratio or Excess Availability test in this Agreement, the amount of any basket based on EBITDA or Consolidated Adjusted EBITDA, as applicable, or Consolidated Total Assets, the accuracy of any representation or warranty or the evidence of any Default or Event of Default, in each case in connection with the consummation of a Limited Condition Transaction shall be tested at the time of consummation of such Limited Condition Transaction.

1.9 **Division of Limited Liability Company**. Any reference herein to a merger, transfer, consolidation, amalgamation, consolidation, assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a division of or by a limited liability company, or an allocation of assets to a series of a limited liability company (or the unwinding of such a division or allocation), as if it were a merger, transfer, consolidation, amalgamation, consolidation, assignment, sale or transfer, or similar term, as applicable, to, of or with a separate Person. Any division of a limited liability company shall constitute a separate Person hereunder (and each division of any limited liability company that is a subsidiary, Restricted Subsidiary, Unrestricted Subsidiary, joint venture or any other like term shall also constitute such a Person or entity).

2. LOANS AND TERMS OF PAYMENT.

2.1 Revolving Loans.

(a) Solely with respect to amounts to be borrowed on the Closing Date and subject to the terms and conditions of this Agreement, each US Revolving Lender and UK Revolving Lender, as applicable, agrees (severally, not jointly or jointly and severally) to make US Revolving Loans or UK Revolving Loans, as applicable (collectively, "Closing Date Revolving Loans"), to the Borrowers in an aggregate amount not to exceed $20,000,000 or the Dollar Equivalent thereof. The Closing Date Revolving Loans shall be deemed to be US Revolving Loans or UK Revolving Loans, as applicable, for the purposes under this Agreement.

(b) Subject to the terms and conditions of this Agreement (including Section 2.1(f) below), and during the term of this Agreement, each Lender with a US Revolver Commitment agrees (severally, not jointly or jointly and severally) to make Revolving Loans in Dollars ("US Revolving Loans") to US Borrowers in an amount at any one time outstanding not to exceed*the lesser of*:

(i) such Lender's US Revolver Commitment, or

(ii) such Lender's Pro Rata Share of an amount equal to the lesser of:

(A) the amount equal to (1) the US Maximum Revolver Amount, *less* (2) the US Revolver Usage at such time, and

(B) the amount equal to (1) the US Borrowing Base as of such date (based upon the most recent Borrowing Base Certificate delivered by US Borrowers to Agent, as adjusted for Reserves established by Agent in accordance with Section 2.1(e)), *less* (2) US Revolver Usage at such time.

(c) Subject to the terms and conditions of this Agreement, and during the term of this Agreement, each UK Lender agrees (severally, not jointly or jointly and severally) to make Revolving Loans in an Applicable Currency ("UK Revolving Loans") to UK Borrowers in a Dollar Equivalent amount at any one time outstanding not to exceed *the lesser of*:

(i) such UK Lender's UK Revolver Commitment, or

(ii) such UK Lender's Pro Rata Share of an amount equal to the lesser of:

(A) the amount equal to (1) the UK Maximum Revolver Amount, *less* (2) the UK Revolver Usage at such time, and

(B) the amount equal to (1) the UK Borrowing Base as of such date (based upon the UK Borrowing Base set forth in the most recent Borrowing Base Certificate delivered by UK Borrowers to Agent as adjusted for UK Reserves established by Agent in accordance with Section 2.1(e)) *less* (2) the UK Revolver Usage at such time.

(d) Amounts borrowed pursuant to this Section 2.1 may be repaid and, subject to the terms and conditions of this Agreement, reborrowed at any time during the term of this Agreement. The outstanding principal amount of the Revolving Loans, together with interest accrued and unpaid thereon, shall constitute Obligations and shall be due and payable on the Maturity Date or, if earlier, on the date on which they otherwise become due and payable pursuant to the terms of this Agreement.

(e) Anything to the contrary in this Section 2.1 notwithstanding, Agent shall have the right (but not the obligation) at any time, in the exercise of its Permitted Discretion, to establish and increase or decrease Receivable Reserves, Bank Product Reserves, Vehicle Sales/Use Taxes Reserves, UK Priority Payable Reserves and other Reserves against (without double counting) the Aggregate Borrowing Base, US Borrowing Base and/or UK Borrowing Base or any component thereof or the Maximum Revolver Amount. The amount of any Receivable Reserve, Bank Product Reserve, Vehicle Sales/Use Taxes Reserve, UK Priority Payable Reserves or other Reserve established by Agent, and any changes to the eligibility set forth in the definition of "Eligible Accounts", "Eligible Inventory" or "Eligible Rolling Stock Collateral" shall have a reasonable relationship to the event, condition, other circumstance, or fact that is the basis for such reserve or change in eligibility and shall not be duplicative of any other reserve established and currently maintained.

(f) Notwithstanding anything to the contrary in this Section 2.1, at no time shall (i) the sum of the US Revolver Usage *plus* the Dollar Equivalent of the UK Revolver Usage, exceed the Maximum Revolver Amount, (ii) the US Revolver Usage exceed the US Maximum Revolver Amount, and (iii) the Dollar Equivalent of the UK Revolver Usage exceed the UK Maximum Revolver Amount.

2.2 **[Reserved]**.

2.3 **Borrowing Procedures and Settlements.**

(a) **Procedure for Borrowing Revolving Loans.** Provided Agent has not separately agreed that US Borrowers may use the Loan Management Service, each Borrowing shall be made by a written request by an Authorized Person of US Administrative Borrower with respect to US Revolving Loans or UK Administrative Borrower with respect to UK Revolving Loans, delivered to Agent (which may be delivered through Agent's electronic platform or portal) and received by Agent no later than 11:00 a.m. (or 11:00 a.m. (London time) in the case of UK Borrowings) (i) on the Business Day that is the requested Funding Date in the case of a request for a Swing Loan or a UK Revolving Loan in GBP, (ii) on the Business Day that is one (1) Business Day prior to the requested Funding Date in the case of a request for a Base Rate Loan, and (iii) on the Business Day that is three (3) Business Days prior to the requested Funding Date in the case of a request for a LIBOR Rate Loan in a currency other than GBP, specifying (A) the amount of such Borrowing and whether such Borrowing is for the account of a US Borrower or a UK Borrower (and if for a UK Borrower, the Applicable Currency), and (B) the requested Funding Date (which shall be a Business Day); provided, that Agent may, in its sole discretion, elect to accept as timely requests that are received later than 11:00 a.m. (or 11:00 a.m. (London time) in the case of UK Borrowings) on the applicable Business Day. All Borrowing requests which are not made on-line via Agent's electronic platform or portal shall be subject to (and unless Agent elects otherwise in the exercise of its sole discretion, such Borrowings shall not be made until the completion of) Agent's authentication process (with results satisfactory to Agent) prior to the funding of any such requested Revolving Loan. Borrowings for the account of a US Borrower shall be denominated in Dollars. Borrowings for the account of UK Borrowers shall be denominated in an Applicable Currency.

(b) **Making of Swing Loans.** In the case of a US Revolving Loan and so long as any of (i) the aggregate amount of Swing Loans made since the last Settlement Date, *minus* all payments or other amounts applied to Swing Loans since the last Settlement Date, plus the amount of the requested Swing Loan does not exceed $7,500,000, or (ii) Swing Lender, in its sole discretion, agrees to make a Swing Loan notwithstanding the foregoing limitation, Swing Lender shall make a US Revolving Loan (any such US Revolving Loan made by Swing Lender pursuant to this Section 2.3(b) being referred to as a "Swing Loan" and all such US Revolving Loans being referred to as "Swing Loans") available to US Borrowers on the Funding Date applicable thereto by transferring immediately available funds in the amount of such US Borrowing to the US Designated Account. Each Swing Loan shall be deemed to be a US Revolving Loan hereunder and shall be subject to all the terms and conditions (including Section 3) applicable to other US Revolving Loans, except that all payments (including interest) on any Swing Loan shall be payable to Swing Lender solely for its own account. Subject to the provisions of Section 2.3(d)(ii), Swing Lender shall not make and shall not be obligated to make any Swing Loan if Swing Lender has actual knowledge that (i) one or more of the applicable conditions precedent set forth in Section 3 will not be satisfied on the requested Funding Date for the applicable US Borrowing, or (ii) the requested US Borrowing would exceed the Excess Availability on such Funding Date. Swing Lender shall not otherwise be required to determine whether the applicable conditions precedent set forth in Section 3 have been satisfied on the Funding Date applicable thereto prior to making any Swing Loan. The Swing Loans shall be secured by Agent's Liens, constitute US Revolving Loans and US Obligations, and bear interest at the rate applicable from time to time to US Revolving Loans that are Base Rate Loans.

(c) **Making of Revolving Loans**.

(i) In the event that Swing Lender is not obligated to make a Swing Loan or in respect of a UK Revolving Loan, after receipt of a request for a Borrowing pursuant to Section 2.3(a) or (b), Agent shall notify the applicable Lenders by telecopy, telephone, email, or other electronic form of transmission, of the requested Borrowing (and whether such Borrowing is for the account of US Borrowers or UK Borrowers, as the case may be); such notification to be sent on the Business Day that is (A) in the case of Base Rate Loans, at least one (1) Business Day prior to the requested Funding Date, or (B) in the case of LIBOR Rate Loans, prior to 11:00 a.m. (or 1:00 p.m. (London time) in the case of UK Borrowings) at least three (3) Business Days prior to the requested Funding Date (or, in each case, such later time as shall be acceptable to the Agent). Agent shall promptly notify the Lenders with an applicable Commitment of a requested Borrowing and each such Lender shall make the amount of such Lender's Pro Rata Share of the requested Borrowing available to Agent in immediately available funds in the Applicable Currency, to Agent's Applicable Account, not later than 10:00 a.m. (or 10:00 a.m. (London time) in the case of UK Borrowings) on the Business Day that is the requested Funding Date. After Agent's receipt of the proceeds of such Revolving Loans from the Lenders, Agent shall make the proceeds thereof available to the applicable Borrowers on the applicable Funding Date by transferring immediately available funds in the Applicable Currency equal to such proceeds received by Agent to the US Designated Account or the UK Designated Account, as the case may be; provided, that, subject to the provisions of Section 2.3(d)(ii), no Lender shall have an obligation to make any Revolving Loan, if (1) one or more of the applicable conditions precedent set forth in Section 3 will not be satisfied on the requested Funding Date for the applicable Borrowing unless such condition has been waived, or (2) the requested Borrowing would exceed the US Availability (in the case of a US Borrowing) or the UK Availability (in the case of a UK Borrowing) on such Funding Date.

(ii) Unless Agent receives notice from a Lender prior to 9:30 a.m. (or 9:30 a.m. (London time) in the case of UK Borrowings) on the Business Day that is the requested Funding Date relative to a requested Borrowing as to which Agent has notified the Lenders of a requested Borrowing that such Lender will not make available as and when required hereunder to Agent for the account of Borrowers the amount of that Lender's Pro Rata Share of the Borrowing, Agent may assume that each Lender has made or will make such amount available to Agent in immediately available funds in the Applicable Currency on the Funding Date and Agent may (but shall not be so required), in reliance upon such assumption, make available to Borrowers a corresponding amount. If, on the requested Funding Date, any Lender shall not have remitted the full amount that it is required to make available to Agent in immediately available funds in the Applicable Currency and if Agent has made available to Borrowers such amount on the requested Funding Date, then such Lender shall make the amount of such Lender's Pro Rata Share of the requested Borrowing available to Agent in immediately available funds in the Applicable Currency, to Agent's Applicable Account, no later than 10:00 a.m. (or 10:00 a.m. (London time) in the case of UK Borrowings) on the Business Day that is the first Business Day after the requested Funding Date (in which case, the interest accrued on such Lender's portion of such Borrowing for the Funding Date shall be for Agent's separate account). If any Lender shall not remit the full amount that it is required to make available to Agent in immediately available funds in the Applicable Currency as and when required hereby and if Agent has made available to Borrowers such amount, then that Lender shall be obligated to immediately remit such amount to Agent, together with interest at the Defaulting Lender Rate for each day until the date on which such amount is so remitted. A notice submitted by Agent to any Lender with respect to amounts owing under this Section 2.3(c)(ii) shall be conclusive, absent manifest error. If the amount that a Lender is required to remit is made available to Agent, then such payment to Agent shall constitute such Lender's Revolving Loan for all purposes of this Agreement. If such amount is not made available to Agent on the Business Day following the Funding Date, Agent will notify Borrowers of such failure to fund and, upon demand by Agent, Borrowers shall pay such amount to Agent for Agent's Applicable Account, together with interest thereon for each day elapsed since the date of such Borrowing, at a rate per annum equal to the interest rate applicable at the time to the Revolving Loans composing such Borrowing. Nothing herein shall be deemed to relieve any Lender from its obligation to fulfill its Commitment or to prejudice any rights which the Agent or any Borrower or any other Loan Party may have against any Lender as a result of any default by such Lender hereunder.

(iii) **Loan Management Service.** If Agent has separately agreed that US Borrowers may use the Loan Management Service, US Borrowers shall not request and Agent shall no longer honor a request for a US Borrowing made in accordance with Section 2.3(a) and all US Borrowings will instead be initiated by Agent and credited to the US Designated Account as US Borrowings as of the end of each Business Day in an amount sufficient to maintain an agreed upon ledger balance in the US Designated Account, subject only to limitations set forth in in Section 2.1. If Agent terminates US Borrowers' access to the Loan Management Service, US Borrowers may continue to request US Borrowings as provided in Section 2.3(a), subject to the other terms and conditions of this Agreement. Agent shall have no obligation to make a Borrowing through the Loan Management Service after the occurrence of a Default or an Event of Default, or in an amount in excess of Availability, and may terminate the Loan Management Service at any time in its sole discretion.

(d) **Protective Advances and Optional Overadvances.**

(i) Any contrary provision of this Agreement or any other Loan Document notwithstanding (but subject to Section 2.3(d)(iv)), at any time (A) after the occurrence and during the continuance of a Default or an Event of Default, or (B) that any of the other applicable conditions precedent set forth in Section 3 are not satisfied, Agent hereby is authorized by US Borrowers and the US Lenders, from time to time, in Agent's sole discretion, to make US Revolving Loans to, or for the benefit of, US Borrowers, on behalf of the applicable US Lenders, that Agent, in its Permitted Discretion, deems necessary or desirable (1) to preserve or protect the Collateral, or any portion thereof, or (2) to enhance the likelihood of repayment of the Obligations (other than the Bank Product Obligations) (the US Revolving Loans described in this Section 2.3(d)(i) shall be referred to as "Protective Advances"). Notwithstanding the foregoing, the aggregate amount of all Protective Advances outstanding at any one time shall not exceed $5,000,000.

(ii) Any contrary provision of this Agreement or any other Loan Document notwithstanding, the US Lenders hereby authorize Agent or Swing Lender, as applicable, and either Agent or Swing Lender, as applicable, may, but is not obligated to, knowingly and intentionally, continue to make US Revolving Loans (including Swing Loans) to US Borrowers notwithstanding that an Overadvance exists or would be created thereby, so long as (A) after giving effect to such US Revolving Loans, the outstanding US Revolver Usage does not exceed the US Borrowing Base by more than $5,000,000, and (B) subject to Section 2.3(d)(iv) below, after giving effect to such US Revolving Loans, the outstanding US Revolver Usage (except for and excluding amounts charged to the US Loan Account for interest, fees, or applicable Lender Group Expenses) does not exceed the Maximum Revolver Amount. In the event Agent obtains actual knowledge that the US Revolver Usage exceeds the amounts permitted by this Section 2.3(d), regardless of the amount of, or reason for, such excess, Agent shall notify the applicable Lenders as soon as practicable (and prior to making any (or any additional) intentional Overadvances (except for and excluding amounts charged to the US Loan Account for interest, fees, or applicable Lender Group Expenses) unless Agent determines that prior notice would result in imminent harm to the Collateral or its value, in which case Agent may make such Overadvances and provide notice as promptly as practicable thereafter), and the applicable Lenders with US Revolver Commitments thereupon shall, together with Agent, jointly determine the terms of arrangements that shall be implemented with US Borrowers intended to reduce, within a reasonable time, the outstanding principal amount of the US Revolving Loans to US Borrowers to an amount permitted by the preceding sentence. In such circumstances, if any Lender with a US Revolver Commitment objects to the proposed terms of reduction or repayment of any Overadvance, the terms of reduction or repayment thereof shall be implemented according to the determination of the Required Lenders. The foregoing provisions are meant for the benefit of the Lenders and Agent and are not meant for the benefit of Borrowers, which shall continue to be bound by the provisions of Section 2.4(e)(i). Agent's authorization to make intentional Overadvances may be revoked at any time by the Required Lenders delivering written notice of such revocation to Agent. Any such revocation shall become effective prospectively upon Agent's receipt thereof.

(iii) Each Protective Advance and each Overadvance (each, an "Extraordinary Advance") shall be deemed to be a Revolving Loan hereunder, except that no Extraordinary Advance shall be eligible to be a LIBOR Rate Loan. Prior to Settlement of any Extraordinary Advance, all payments with respect thereto, including interest thereon, shall be payable to Agent solely for its own account. Each US Revolving Lender shall be obligated to settle with Agent as provided in Section 2.3(e) or 2.3(g), as applicable, for the amount of such Lender's Pro Rata Share of any Extraordinary Advance. The Extraordinary Advances shall be repayable on demand, secured by Agent's Liens, and constitute US Obligations hereunder, and bear interest at the rate applicable from time to time to US Revolving Loans that are Base Rate Loans. The provisions of this Section 2.3(d) are for the exclusive benefit of Agent, Swing Lender, and the Lenders and are not intended to benefit Borrowers (or any other Loan Party) in any way.

(iv) Notwithstanding anything contained in this Agreement or any other Loan Document to the contrary, no Extraordinary Advance may be made by Agent if such Extraordinary Advance would cause the aggregate US Revolver Usage to exceed the Maximum Revolver Amount or any Lender's Pro Rata Share of the US Revolver Usage to exceed such Lender's US Revolver Commitment; provided that Agent may make Extraordinary Advances in excess of the foregoing limitations so long as such Extraordinary Advances that cause the aggregate US Revolver Usage to exceed the Maximum Revolver Amount or a Lender's Pro Rata Share of the US Revolver Usage to exceed such Lender's US Revolver Commitment are for Agent's sole and separate account and not for the account of any Lender. No Lender shall have an obligation to settle with Agent for such Extraordinary Advances that cause the aggregate US Revolver Usage to exceed the Maximum Revolver Amount or a Lender's Pro Rata Share of the US Revolver Usage to exceed such Lender's US Revolver Commitment as provided in Section 2.3(e) or Section 2.3(g), as applicable.

(e) **Settlement.** It is agreed that each applicable Lender's funded portion of (x) the US Revolving Loans is intended by the Lenders to equal, at all times, such Lender's Pro Rata Share of the outstanding US Revolving Loans, and (y) the UK Revolving Loans is intended by the Lenders to equal, at all times, such Lender's Pro Rata Share of the outstanding UK Revolving Loans. Such agreement notwithstanding, Agent, Swing Lender, and the other Lenders agree (which agreement shall not be for the benefit of Borrowers) that in order to facilitate the administration of this Agreement and the other Loan Documents, settlement among the applicable Lenders as to the Revolving Loans (including Swing Loans and Extraordinary Advances) shall take place on a periodic basis in accordance with the following provisions:

(i) Agent shall request settlement ("Settlement") with the applicable Lenders on a weekly basis, or on a more frequent basis if so determined by Agent in its sole discretion (1) on behalf of Swing Lender, with respect to the outstanding Swing Loans, (2) for itself, with respect to the outstanding Extraordinary Advances, and (3) with respect to Holdings' or any of its Subsidiaries' payments or other amounts received, as to each by notifying the Lenders by telecopy, telephone, or other similar form of transmission, of such requested Settlement, no later than 2:00 p.m. (or 2.00 pm (London time) in the case of UK Revolving Loans) on the Business Day immediately prior to the date of such requested Settlement (the date of such requested Settlement being the "Settlement Date"). Such notice of a Settlement Date shall include a summary statement of the amount of outstanding US Revolving Loans (including Swing Loans and Extraordinary Advances) and UK Revolving Loans for the period since the prior Settlement Date. Subject to the terms and conditions contained herein (including Section 2.3(g)), (x) if the amount of the applicable Revolving Loans (including Swing Loans, and Extraordinary Advances) made by a Lender that is not a Defaulting Lender exceeds such Lender's Pro Rata Share of the applicable Revolving Loans (including Swing Loans and Extraordinary Advances) as of a Settlement Date, then Agent shall, by no later than 12:00 p.m. (or 12.00 pm (London time) in the case of UK Revolving Loans) on the Settlement Date, transfer in immediately available funds in the Applicable Currency to a Deposit Account of such Lender (as such Lender may designate), an amount such that each such Lender shall, upon receipt of such amount, have as of the Settlement Date, its Pro Rata Share of the US Revolving Loans (including Swing Loans and Extraordinary Advances) and UK Revolving Loans, and (y) if the amount of the applicable Revolving Loans (including Swing Loans and Extraordinary Advances) made by a Lender is less than such Lender's Pro Rata Share of the applicable Revolving Loans (including Swing Loans, and Extraordinary Advances) as of a Settlement Date, such Lender shall no later than 12:00 p.m. (or 12.00 pm (London time) in the case of UK Revolving Loans) on the Settlement Date transfer in immediately available funds in the Applicable Currency to Agent's Applicable Account, an amount such that each such Lender shall, upon transfer of such amount, have as of the Settlement Date, its Pro Rata Share of the US Revolving Loans (including Swing Loans and Extraordinary Advances) and UK Revolving Loans. Such amounts made available to Agent under clause (y) of the immediately preceding sentence shall be applied against the amounts of the Swing Loans or Extraordinary Advances, as applicable, and, together with the portion of such Swing Loans or Extraordinary Advances representing Swing Lender's Pro Rata Share thereof, shall constitute the applicable UK Revolving Loans of such Lenders. If any such amount is not made available to Agent by any Lender on the Settlement Date applicable thereto to the extent required by the terms hereof, Agent shall be entitled to recover for its account such amount on demand from such Lender together with interest thereon at the Defaulting Lender Rate.

(ii) In determining whether a Lender's balance of the applicable Revolving Loans, (including Swing Loans and Extraordinary Advances) is less than, equal to, or greater than such Lender's Pro Rata Share of the applicable Revolving Loans (including Swing Loans, and Extraordinary Advances) as of a Settlement Date, Agent shall, as part of the relevant Settlement, apply to such balance the portion of payments actually received in good funds by Agent with respect to principal, interest, fees payable by Borrowers and allocable to the Lenders hereunder, and proceeds of Collateral.

(iii) Between Settlement Dates, Agent, to the extent Extraordinary Advances or Swing Loans are outstanding, may pay over to Agent or Swing Lender, as applicable, any payments or other amounts received by Agent, that in accordance with the terms of this Agreement would be applied to the reduction of the US Revolving Loans, for application to the Extraordinary Advances or Swing Loans. Between Settlement Dates, Agent, to the extent no Extraordinary Advances or Swing Loans are outstanding, may pay over to Swing Lender any payments or other amounts received by Agent, that in accordance with the terms of this Agreement would be applied to the reduction of the US Revolving Loans, for application to Swing Lender's Pro Rata Share of the US Revolving Loans. If, as of any Settlement Date, payments or other amounts of the Loan Parties or their Subsidiaries received since the then immediately preceding Settlement Date have been applied to Swing Lender's Pro Rata Share of the Revolving Loans other than to Swing Loans, as provided for in the previous sentence, Swing Lender shall pay to Agent for the accounts of the applicable Lenders, and Agent shall pay to such Lenders (other than a Defaulting Lender if Agent has implemented the provisions of Section 2.3(g)), to be applied to the applicable outstanding Revolving Loans of such Lenders, an amount such that each such Lender shall, upon receipt of such amount, have, as of such Settlement Date, its Pro Rata Share of the Revolving Loans. During the period between Settlement Dates, Swing Lender with respect to Swing Loans, Agent with respect to Extraordinary Advances, and each Lender with respect to the Revolving Loans, other than Swing Loans and Extraordinary Advances, shall be entitled to interest at the applicable rate or rates payable under this Agreement on the daily amount of funds employed by Swing Lender, Agent, or the Lenders, as applicable.

(iv) Anything in this Section 2.3(e) to the contrary notwithstanding, in the event that a Lender is a Defaulting Lender, Agent shall be entitled to refrain from remitting settlement amounts to the Defaulting Lender and, instead, shall be entitled to elect to implement the provisions set forth in Section 2.3(g).

(f) **Notation.** Consistent with Section 13.1(h) below, Agent, as a non-fiduciary agent for Borrowers, shall maintain a register showing the principal amount and stated interest of the Revolving Loans, owing to each Lender, including the Swing Loans owing to the Swing Lender, and Extraordinary Advances owing to Agent, and the interests therein of each Lender, from time to time and such register shall, absent manifest error, conclusively be presumed to be correct and accurate.

(g) **Defaulting Lenders.**

(i) Notwithstanding the provisions of Section 2.4(b)(iii), Agent shall not be obligated to transfer to a Defaulting Lender any payments made by Borrowers to Agent for the Defaulting Lender's benefit or any proceeds of Collateral that would otherwise be remitted hereunder to the Defaulting Lender, and, in the absence of such transfer to the Defaulting Lender, Agent shall transfer any such payments

(A) pertaining to or securing US Obligations, first, to Agent to the extent of any Extraordinary Advances that were made by Agent and that were required to be, but were not, paid by the Defaulting Lender, second, to Swing Lender to the extent of any Swing Loans that were made by Swing Lender and that were required to be, but were not, paid by the Defaulting Lender, third, to US Issuing Bank, to the extent of the portion of a Letter of Credit Disbursement that was required to be, but was not, paid by the Defaulting Lender, fourth, to each Non-Defaulting Lender ratably in accordance with their US Revolver Commitments (but, in each case, only to the extent that such Defaulting Lender's portion of a US Revolving Loan (or other funding obligation) was funded by such other Non-Defaulting Lender), fifth, in Agent's sole discretion, to a suspense account maintained by Agent, the proceeds of which shall be retained by Agent and may be made available to be re-advanced to or for the benefit of US Borrowers (upon the request of US Administrative Borrower and subject to the conditions set forth in Section 3.2) as if such Defaulting Lender had made its portion of US Revolving Loans (or other funding obligations) hereunder, and sixth, from and after the date on which all other US Obligations have been paid in full, to such Defaulting Lender in accordance with Section 2.4(b)(iii)(M); and

(B) pertaining to or securing UK Obligations, first, to each Non-Defaulting Lender ratably in accordance with their UK Revolver Commitments (but, in each case, only to the extent that such Defaulting Lender's portion of a UK Revolving Loan (or other funding obligation) was funded by such other Non-Defaulting Lender), second, to UK Issuing Bank, to the extent of the portion of a Letter of Credit Disbursement that was required to be, but was not paid by the Defaulting Lender, third, to each Non-Defaulting Lender ratably in accordance with their UK Revolver Commitments (but, in each case, only to the extent that such Defaulting Lender's portion of a UK Revolving Loan (or other funding obligation) was funded by such other Non-Defaulting Lender), fourth, in Agent's sole discretion (upon the request of the UK Administrative Borrower and subject to the conditions set forth in Section 3.2), to a suspense account maintained by Agent, the proceeds of which shall be retained by Agent and may be made available to be re-advanced to or for the benefit of UK Borrowers as if such Defaulting Lender had made its portion of UK Revolving Loans (or other funding obligations) hereunder, and fifth, from and after the date on which all other UK Obligations have been paid in full, to such Defaulting Lender in accordance with tier (B)(5) of Section 2.4(b)(ii).

(ii) Subject to the foregoing clause (i), Agent may hold and, in its discretion, re-lend to Borrowers for the account of such Defaulting Lender the amount of all such payments received and retained by Agent for the account of such Defaulting Lender. Solely for the purposes of voting or consenting to matters with respect to the Loan Documents (including the calculation of Pro Rata Share in connection therewith) and for the purpose of calculating the fee payable under Section 2.10(b), such Defaulting Lender shall be deemed not to be a "Lender" and such Lender's Commitment shall be deemed to be zero; provided, that the foregoing shall not apply to any of the matters governed by Section 14.1(a)(i) through (iii). The provisions of this Section 2.3(g) shall remain effective with respect to such Defaulting Lender until the earlier of (y) the date on which all of the Non-Defaulting Lenders, Agent, Issuing Bank, and Borrowers shall have waived, in writing, the application of this Section 2.3(g) to such Defaulting Lender, or (z) the date on which such Defaulting Lender makes payment of all amounts that it was obligated to fund hereunder, pays to Agent all amounts owing by Defaulting Lender in respect of the amounts that it was obligated to fund hereunder, and, if requested by Agent, provides adequate assurance of its ability to perform its future obligations hereunder (on which earlier date, so long as no Event of Default has occurred and is continuing, any remaining cash collateral held by Agent pursuant to Section 2.3(g)(iii) shall be released to the applicable Borrowers). The operation of this Section 2.3(g) shall not be construed to increase or otherwise affect the Commitment of any Lender, to relieve or excuse the performance by such Defaulting Lender or any other Lender of its duties and obligations hereunder, or to relieve or excuse the performance by any Borrower of its duties and obligations hereunder to Agent, Issuing Bank, or to the Lenders other than such Defaulting Lender. Any failure by a Defaulting Lender to fund amounts that it was obligated to fund hereunder shall constitute a material breach by such Defaulting Lender of this Agreement and shall entitle Borrowers, at their option, upon written notice to Agent, to arrange for a substitute Lender to assume the Commitments of such Defaulting Lender, such substitute Lender to be reasonably acceptable to Agent. In connection with the arrangement of such a substitute Lender, the Defaulting Lender shall have no right to refuse to be replaced hereunder, and agrees to execute and deliver a completed form of Assignment and Acceptance in favor of the substitute Lender (and agrees that it shall be deemed to have executed and delivered such document if it fails to do so) subject only to being paid its share of the outstanding Obligations (other than Bank Product Obligations, but including (1) all interest, fees, and other amounts that may be due and payable in respect thereof, and (2) an assumption of its Pro Rata Share of its participation in the Letters of Credit); provided, that any such assumption of the Commitment of such Defaulting Lender shall not be deemed to constitute a waiver of any of the Lender Groups' or Borrowers' rights or remedies against any such Defaulting Lender arising out of or in relation to such failure to fund. In the event of a direct conflict between the priority provisions of this Section 2.3(g) and any other provision contained in this Agreement or any other Loan Document, it is the intention of the parties hereto that such provisions be read together and construed, to the fullest extent possible, to be in concert with each other. In the event of any actual, irreconcilable conflict that cannot be resolved as aforesaid, the terms and provisions of this Section 2.3(g) shall control and govern.

(iii) If any Swing Loan or Letter of Credit is outstanding at the time that a Lender becomes a Defaulting Lender, then:

(A) such Defaulting Lender's Swing Loan Exposure and Letter of Credit Exposure shall be reallocated among the applicable Non-Defaulting Lenders in accordance with their respective Pro Rata Shares but only to the extent (x) the sum of all applicable Non-Defaulting Lenders' Pro Rata Share of US Revolver Usage plus such Defaulting Lender's Swing Loan Exposure and Letter of Credit Exposure does not exceed the total of all applicable Non-Defaulting Lenders' US Revolver Commitments and (y) the conditions set forth in Section 3.2 are satisfied at such time;

(B) if the reallocation described in clause (A) above cannot, or can only partially, be effected, US Borrowers shall within one Business Day following notice by Agent (x) first, prepay such Defaulting Lender's Swing Loan Exposure (after giving effect to any partial reallocation pursuant to clause (A) above), and (y) second, cash collateralize such Defaulting Lender's Letter of Credit Exposure (after giving effect to any partial reallocation pursuant to clause (A) above), pursuant to a cash collateral agreement to be entered into in form and substance reasonably satisfactory to Agent, for so long as such Letter of Credit Exposure is outstanding; provided, that US Borrowers shall not be obligated to cash collateralize any Defaulting Lender's Letter of Credit Exposure if such Defaulting Lender is also Issuing Bank;

(C) if US Borrowers cash collateralize any portion of such Defaulting Lender's Letter of Credit Exposure pursuant to this Section 2.3(g)(iii), US Borrowers shall not be required to pay any Letter of Credit Fees to Agent for the account of such Defaulting Lender pursuant to Section 2.6(b) with respect to such cash collateralized portion of such Defaulting Lender's Letter of Credit Exposure during the period such Letter of Credit Exposure is cash collateralized;

(D) to the extent the Letter of Credit Exposure of the Non-Defaulting Lenders is reallocated pursuant to this Section 2.3(g)(iii), then the Letter of Credit Fees payable to the Non-Defaulting Lenders pursuant to Section 2.6(b) shall be adjusted in accordance with such Non-Defaulting Lenders' Letter of Credit Exposure;

(E) to the extent any Defaulting Lender's Letter of Credit Exposure is neither cash collateralized nor reallocated pursuant to this Section 2.3(g)(iii), then, without prejudice to any rights or remedies of Issuing Bank or any Lender hereunder, all Letter of Credit Fees that would have otherwise been payable to such Defaulting Lender under Section 2.6(b) with respect to such portion of such Letter of Credit Exposure shall instead be payable to Issuing Bank until such portion of such Defaulting Lender's Letter of Credit Exposure is cash collateralized or reallocated;

(F) so long as any Lender is a Defaulting Lender, Swing Lender shall not be required to make any Swing Loan and Issuing Bank shall not be required to issue, amend, or increase any Letter of Credit, in each case, to the extent (x) the Defaulting Lender's Pro Rata Share of such Swing Loans or Letter of Credit cannot be reallocated pursuant to this Section 2.3(g)(iii) or (y) Swing Lender or Issuing Bank, as applicable, has not otherwise entered into arrangements reasonably satisfactory to Swing Lender or Issuing Bank, as applicable, and US Borrowers to eliminate Swing Lender's or Issuing Bank's risk with respect to the Defaulting Lender's participation in Swing Loans or Letters of Credit; and

(G) Agent may release any cash collateral provided by US Borrowers pursuant to this Section 2.3(g)(iii) to Issuing Bank and Issuing Bank may apply any such cash collateral to the payment of such Defaulting Lender's Pro Rata Share of any Letter of Credit Disbursement that is not reimbursed by US Borrowers pursuant to Section 2.11(d). No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(h) **Independent Obligations**. All Revolving Loans (other than Swing Loans and Extraordinary Advances) shall be made by the applicable Lenders contemporaneously and in accordance with their Pro Rata Shares. It is understood that (i) no Lender shall be responsible for any failure by any other Lender to perform its obligation to make any Revolving Loan (or other extension of credit) hereunder, nor shall any Commitment of any Lender be increased or decreased as a result of any failure by any other Lender to perform its obligations hereunder, and (ii) no failure by any Lender to perform its obligations hereunder shall excuse any other Lender from its obligations hereunder.

2.4 **Payments; Termination of Commitments; Prepayments**.

(a) **Payments by Borrowers**.

(i) Except as otherwise expressly provided herein, all payments by Borrowers shall be made to Agent's Applicable Account for the account of the applicable members of the Lender Group and shall be made in immediately available funds in the Applicable Currency, no later than 1:30 p.m. (or 1:30 p.m. (London time) in the case of payments made to Agent's UK Account) on the date specified herein. Any payment received by Agent later than 1:30 p.m. (or 1:30 p.m. (London time) in the case of payments made to Agent's UK Account) shall be deemed to have been received (unless Agent, in its sole discretion, elects to credit it on the date received) on the following Business Day and any applicable interest or fee shall continue to accrue until such following Business Day.

(ii) Unless Agent receives notice from Borrowers prior to the date on which any payment is due to the Lenders that Borrowers will not make such payment in full as and when required, Agent may assume that Borrowers have made (or will make) such payment in full to Agent on such date in immediately available funds in the Applicable Currency, and Agent may (but shall not be so required), in reliance upon such assumption, distribute to each Lender on such due date an amount equal to the amount then due such Lender. If and to the extent Borrowers do not make such payment in full to Agent on the date when due, each Lender severally shall repay to Agent on demand such amount distributed to such Lender, together with interest thereon at the Defaulting Lender Rate for each day from the date such amount is distributed to such Lender until the date repaid.

(b) **Apportionment and Application**.

(i) So long as no Application Event has occurred and is continuing and except as otherwise provided herein with respect to Defaulting Lenders, all principal and interest payments received by Agent shall be apportioned ratably among the applicable Lenders (according to the unpaid principal balance of the Obligations to which such payments relate held by each such Lender) and all payments of fees and expenses received by Agent (other than fees or expenses that are for Agent's separate account or for the separate account of Issuing Bank) shall be apportioned ratably among the Lenders having a Pro Rata Share of the type of Commitment or Obligation to which a particular fee or expense relates.

(ii) Subject to Section 2.4(b)(iii) and (iv), and Section 2.4(e),

(A) all payments in respect of US Obligations to be made hereunder by US Borrowers shall be remitted to Agent and all such payments, and all proceeds of Collateral securing US Obligations received by Agent, shall be applied, so long as no Application Event has occurred and is continuing and except as otherwise provided herein with respect to Defaulting Lenders, to reduce the balance of the US Revolving Loans outstanding and, thereafter, to US Borrowers (to be wired to the US Designated Account) or such other Person entitled thereto under applicable law; and

(B) all payments in respect of UK Obligations to be made hereunder by UK Borrowers shall be remitted to Agent and all such payments, and all proceeds of Collateral securing UK Obligations received by Agent and/or UK Security Agent (including all amounts standing to the credit of the UK Blocked Accounts), shall be applied, so long as no Application Event has occurred and is continuing and except as otherwise provided herein with respect to Defaulting Lenders as follows:

(1) first, to pay any Lender Group Expenses (including cost or expense reimbursements) or indemnities then due to Agent and/or UK Security Agent and/or Lenders or any fees or premiums then due to Agent and/or UK Security Agent and/or Lenders under the Loan Documents in respect of the UK Obligations, until paid in full,

(2) second, ratably, to pay interest accrued in respect of the UK Revolving Loans until paid in full,

(3) third, to pay the principal of all UK Revolving Loans until paid in full,

(4) fourth, to pay any other UK Obligations other than UK Obligations owed to Defaulting Lenders (including being paid, ratably, to the Bank Product Providers on account of all amounts then due and payable in respect of UK Bank Product Obligations),

(5) fifth, ratably, to pay any UK Obligations owed to Defaulting Lenders, and

(6) sixth, to UK Borrowers (to be wired to the UK Designated Account) or such other Person entitled thereto under applicable law.

(iii) At any time that an Application Event has occurred and is continuing and except as otherwise provided herein with respect to Defaulting Lenders, all payments remitted to Agent in respect of US Obligations and all proceeds of Collateral of the US Loan Parties received by Agent shall be applied as follows:

(A) first, to pay any Lender Group Expenses (including cost or expense reimbursements) or indemnities then due to Agent under the Loan Documents in respect of the US Obligations and to pay interest and principal on Extraordinary Advances that are held solely by Agent pursuant to the terms of Section 2.3(d)(iv), until paid in full,

(B) second, to pay any fees or premiums then due to Agent under the Loan Documents in respect of the US Obligations until paid in full,

(C) third, to pay interest due in respect of all Extraordinary Advances in respect of the US Obligations until paid in full,

(D) fourth, to pay the principal of all Extraordinary Advances in respect of the US Obligations until paid in full,

(E) fifth, ratably, to pay any Lender Group Expenses (including cost or expense reimbursements) or indemnities then due to any of the Lenders under the Loan Documents in respect of the US Obligations, until paid in full,

(F) sixth, ratably, to pay any fees or premiums then due to any of the Lenders under the Loan Documents in respect of the US Obligations until paid in full,

(G) seventh, to pay interest accrued in respect of the Swing Loans until paid in full,

(H) eighth, to pay the principal of all Swing Loans until paid in full,

(I) ninth, ratably, to pay interest accrued in respect of the US Revolving Loans (other than Extraordinary Advances) until paid in full,

(J) tenth, ratably

(1) to pay the principal of all US Revolving Loans until paid in full,

(2) to Agent, to be held by Agent, for the benefit of Issuing Bank in respect of the US Obligations (and for the ratable benefit of each of the Lenders that have an obligation to pay to Agent, for the account of Issuing Bank, a share of each Letter of Credit Disbursement), as cash collateral in an amount up to 103% of the US Letter of Credit Usage (to the extent permitted by applicable law, such cash collateral shall be applied to the reimbursement of any Letter of Credit Disbursement as and when such disbursement occurs and, if a Letter of Credit expires undrawn, the cash collateral held by Agent in respect of such Letter of Credit shall, to the extent permitted by applicable law, be reapplied pursuant to this Section 2.4(b)(iii), beginning with tier (A) hereof), and

(3) up to the amount (after taking into account any amounts previously paid pursuant to this clause (3) during the continuation of the applicable Application Event) of the most recently established US Bank Product Reserve, which amount was established prior to the occurrence of, and not in contemplation of, the subject Application Event, to (y) the Bank Product Providers based upon amounts then certified by the applicable Bank Product Provider to Agent (in form and substance satisfactory to Agent) to be due and payable to such Bank Product Provider on account of US Bank Product Obligations, and (z) with any balance to be paid to Agent, to be held by Agent, for the ratable benefit of the Bank Product Providers, as cash collateral (which cash collateral may be released by Agent to the applicable Bank Product Provider and applied by such Bank Product Provider to the payment or reimbursement of any amounts due and payable with respect to US Bank Product Obligations owed to the applicable Bank Product Provider as and when such amounts first become due and payable and, if and at such time as all such US Bank Product Obligations are paid or otherwise satisfied in full, the cash collateral held by Agent in respect of such US Bank Product Obligations shall be reapplied pursuant to this Section 2.4(b)(iii), beginning with tier (A) hereof,

(K) eleventh, to pay any other US Obligations other than US Obligations owed to Defaulting Lenders (including being paid, ratably, to the Bank Product Providers on account of all amounts then due and payable in respect of US Bank Product Obligations, with any balance to be paid to Agent, to be held by Agent, for the ratable benefit of the Bank Product Providers, as cash collateral (which cash collateral may be released by Agent to the applicable Bank Product Provider and applied by such Bank Product Provider to the payment or reimbursement of any amounts due and payable with respect to US Bank Product Obligations owed to the applicable Bank Product Provider as and when such amounts first become due and payable and, if and at such time as all such US Bank Product Obligations are paid or otherwise satisfied in full, the cash collateral held by Agent in respect of such UK Bank Product Obligations shall be reapplied pursuant to this Section 2.4(b)(iii), beginning with tier (A)(1) hereof),

(L) twelfth, ratably, to pay any UK Obligations arising as a result of any guaranty by a US Loan Party of the UK Obligations (and if no amounts are due under any such guaranty, to cash collateralize the obligations under such guaranty unless the UK Revolver Commitments of Lenders to make UK Revolving Loans have terminated and the UK Obligations have been paid in full),

(M) thirteenth, ratably, to pay any US Obligations owed to Defaulting Lenders, and

(N) fourteenth, to US Borrowers (to be wired to the US Designated Account) or such other Person entitled thereto under applicable law.

(iv) At any time an Application Event has occurred and is continuing and except as otherwise provided herein with respect to Defaulting Lenders, all payments in respect of UK Obligations and all proceeds of Collateral securing the UK Obligations received by Agent or UK Security Agent (including all amounts standing to the credit of the UK Blocked Accounts) shall be applied as follows:

(A) first, to pay any Lender Group Expenses (including cost or expense reimbursements) or indemnities then due to Agent and/or UK Security Agent under the Loan Documents in respect of the UK Obligations, until paid in full,

(B) second, to pay any fees or premiums then due to Agent under the Loan Documents in respect of the UK Obligations until paid in full,

(C) third, ratably, to pay any Lender Group Expenses (including cost or expense reimbursements) or indemnities then due to any of the Lenders under the Loan Documents in respect of the UK Obligations, until paid in full,

(D) fourth, ratably, to pay any fees or premiums then due to any of the Lenders under the Loan Documents in respect of the UK Obligations until paid in full,

(E) fifth, ratably, to pay interest accrued in respect of the UK Revolving Loans until paid in full,

(F) sixth, ratably, to pay (1) the principal of all UK Revolving Loans until paid in full, (2) to Agent to be held by Agent for the benefit of Issuing Bank in respect of the UK Obligations (and for the ratable benefit of each of the Lenders that have an obligation to pay to Agent, for the account of Issuing Bank, a share of each Letter of Credit Disbursement), as cash collateral in an amount up to 103% of the UK Letter of Credit Usage (to the extent permitted by applicable law, such cash collateral shall be applied to the reimbursement of any Letter of Credit Disbursement as and when such disbursement occurs and, if a Letter of Credit expires undrawn, the cash collateral held by Agent in respect of such Letter of Credit shall, to the extent permitted by applicable law, be reapplied pursuant to this Section 2.4(b)(iv), beginning with tier (A) hereof), and (3) up to the amount (after taking into account any amounts previously paid pursuant to this clause (F) during the continuation of the applicable Application Event) of the most recently established UK Bank Product Reserve, which amount was established prior to the occurrence of, and not in contemplation of, the subject Application Event, to (y) the Bank Product Providers based upon amounts then certified by the applicable Bank Product Provider to Agent (in form and substance satisfactory to Agent) to be due and payable to such Bank Product Providers on account of UK Bank Product Obligations, and (z) with any balance to be paid to Agent, to be held by Agent, for the ratable benefit of the Bank Product Providers, as cash collateral (which cash collateral may be released by Agent to the applicable Bank Product Provider and applied by such Bank Product Provider to the payment or reimbursement of any amounts due and payable with respect to UK Bank Product Obligations owed to the applicable Bank Product Provider as and when such amounts first become due and payable and, if and at such time as all such UK Bank Product Obligations are paid or otherwise satisfied in full, the cash collateral held by Agent in respect of such UK Bank Product Obligations shall be reapplied pursuant to this Section 2.4(b)(iv), beginning with tier (B) hereof,

(G) seventh, to pay any other UK Obligations other than UK Obligations owed to Defaulting Lenders (including being paid, ratably, to the Bank Product Providers on account of all amounts then due and payable in respect of UK Bank Product Obligations, with any balance to be paid to Agent, to be held by Agent, for the ratable benefit of the Bank Product Providers, as cash collateral (which cash collateral may be released by Agent to the applicable Bank Product Provider and applied by such Bank Product Provider to the payment or reimbursement of any amounts due and payable with respect to UK Bank Product Obligations owed to the applicable Bank Product Provider as and when such amounts first become due and payable and, if and at such time as all such UK Bank Product Obligations are paid or otherwise satisfied in full, the cash collateral held by Agent in respect of such UK Bank Product Obligations shall be reapplied pursuant to this Section 2.4(b)(iv), beginning with tier (B)(1) hereof),

(H) eighth, ratably, to pay any UK Obligations owed to Defaulting Lenders; and

(I) ninth, to UK Borrowers (to be wired to the UK Designated Account) or such other Person entitled thereto under applicable law.

(v) Agent promptly shall distribute to each applicable Lender, pursuant to the applicable wire instructions received from each Lender in writing, such funds as it may be entitled to receive, subject to a Settlement delay as provided in Section 2.3(e).

(vi) In each instance, so long as no Application Event has occurred and is continuing, Section 2.4(b)(ii) shall not apply to any payment made by Borrowers to Agent and specified by Borrowers to be for the payment of specific Obligations then due and payable (or prepayable) under any provision of this Agreement or any other Loan Document.

(vii) For purposes of Section 2.4(b)(iii), "paid in full" of a type of Obligation means payment in cash or immediately available funds of all amounts owing on account of such type of Obligation, including interest accrued after the commencement of any Insolvency Proceeding, default interest, interest on interest, and expense reimbursements, irrespective of whether any of the foregoing would be or is allowed or disallowed in whole or in part in any Insolvency Proceeding.

(viii) In the event of a direct conflict between the priority provisions of this Section 2.4 and any other provision contained in this Agreement or any other Loan Document, it is the intention of the parties hereto that such provisions be read together and construed, to the fullest extent possible, to be in concert with each other. In the event of any actual, irreconcilable conflict that cannot be resolved as aforesaid, if the conflict relates to the provisions of Section 2.3(g) and this Section 2.4, then the provisions of Section 2.3(g) shall control and govern, and if otherwise, then the terms and provisions of this Section 2.4 shall control and govern.

(ix) Payments from US Loan Parties shall be deemed to be in respect of US Obligations, and payments from UK Loan Parties shall be deemed to be in respect of UK Obligations, unless, so long as no Application Event has occurred and is continuing, the Loan Party making the payment specifies otherwise in writing. If payment is from proceeds of Collateral that secures each of the US Obligations and UK Obligations, such payment shall be, so long as no Application Event has occurred and is continuing, as specified by Borrowers or, if not so specified or if an Application Event has occurred and is continuing, as determined by Agent in its sole discretion.

(c) **Reduction of Revolver Commitments**. The Revolver Commitments shall terminate on the Maturity Date or earlier termination thereof pursuant to the terms of this Agreement. Borrowers may reduce the Revolver Commitments, without premium or penalty, to an amount (which may be zero) not less than the sum of (A) the Revolver Usage as of such date, plus (B) the principal amount of all Revolving Loans not yet made as to which a request has been given by Borrowers under Section 2.3(a), plus (C) the amount of all Letters of Credit not yet issued as to which a request has been given by Borrowers pursuant to Section 2.11(a). Each such reduction shall be in an amount which is not less than $5,000,000 (unless the Revolver Commitments are being reduced to zero and the amount of the Revolver Commitments in effect immediately prior to such reduction are less than $5,000,000), shall be made by providing not less than ten (10) Business Days prior written notice to Agent, shall be irrevocable. Once reduced, the Revolver Commitments may not be increased. Each such reduction of the Revolver Commitments shall reduce the UK Revolver Commitments and US Revolver Commitments of each Lender proportionately in accordance with its ratable share thereof. In connection with any reduction in the Revolver Commitments prior to the Maturity Date, if any Loan Party or any of its Subsidiaries owns any Margin Stock, Borrowers shall deliver to Agent an updated Form U-1 (with sufficient additional originals thereof for each Lender), duly executed and delivered by the Borrowers, together with such other documentation as Agent shall reasonably request, in order to enable Agent and the Lenders to comply with any of the requirements of Regulations T, U or X of the Federal Reserve Board.

(d) **Optional Prepayments of Revolving Loans**. Borrowers may prepay the principal of any Revolving Loan at any time in whole or in part, without premium or penalty but subject to any Funding Losses pursuant to Section 2.12(b)(ii) and Agent shall apply such prepayments to the US Revolving Loans, the UK Revolving Loans, or all of them, as directed by the applicable Borrowers in writing at the time of payment so long as no Application Event has occurred or is continuing.

(e) **Mandatory Prepayments.**

(i) **Borrowing Base**. If, at any time, (A) (1) the US Revolver Usage on such date exceeds either (x) the US Maximum Revolver Amount or (y) the US Borrowing Base reflected in the Borrowing Base Certificate most recently delivered by Borrowers to Agent, or (2) the US Revolver Usage on such date plus the UK Revolver Usage on such date exceeds the Maximum Revolver Amount, then in each case, US Borrowers shall immediately prepay the Obligations in accordance with Section 2.4(f)(i) in an aggregate amount equal to the amount of such excess or (B) the Dollar Equivalent of the UK Revolver Usage on such date exceeds any of the (x) the UK Maximum Revolver Amount or (y) the UK Borrowing Base reflected in the Borrowing Base Certificate most recently delivered by Borrowers to Agent or (z) the Maximum Revolver Amount, in all cases as adjusted for Reserves established by Agent in accordance with Section 2.1(e), then Borrowers shall immediately (but in any event within one (1) Business Day) prepay the Obligations in accordance with Section 2.4(f) in an aggregate amount equal to the amount of such excess.

(ii) **Proceeds of Collateral**. At any time that a US Cash Dominion Period is in effect, within one (1) Business Day of the date of receipt by Holdings or any of its Subsidiaries of any proceeds of any Collateral securing US Obligations, US Borrowers shall prepay the outstanding principal amount of the US Obligations in accordance with Section 2.4(f) in an amount equal to 100% of such proceeds of Collateral received by such Person.

(f) **Application of Payments.** (i) Each prepayment pursuant to clauses (i)(A) or (ii) of Section 2.4(e) shall, (A) so long as no Application Event shall have occurred and be continuing, be applied, *first*, to the outstanding principal amount of the US Revolving Loans until paid in full, and *second*, to cash collateralize the Letters of Credit issued for the account of US Borrowers in an amount equal to 103% of the then outstanding US Letter of Credit Usage, and (B) if an Application Event shall have occurred and be continuing, be applied in the manner set forth in Section 2.4(b)(iii).

(ii) Each prepayment pursuant to clause (i)(B) of Section 2.4(e) shall, (A) so long as no Application Event shall have occurred and be continuing, be applied *first*, to the outstanding principal amount of the UK Revolving Loans until paid in full, and *second*, to cash collateralize the Letters of Credit issued for the account of UK Borrowers in an amount equal to 103% of the then outstanding UK Letter of Credit Usage, and (B) if an Application Event shall have occurred and be continuing, be applied in the manner set forth in Section 2.4(b)(iv).

2.5 **Promise to Pay; Promissory Notes.**

(a) Borrowers agree to pay the Lender Group Expenses, after the receipt of a written request thereof, on the earlier of (i) the first day of the month following the date on which the applicable Lender Group Expenses were first incurred or (ii) two Business Days after the date on which demand therefor is made by Agent (it being acknowledged and agreed that any charging of such costs, expenses or Lender Group Expenses to the applicable Loan Account pursuant to the provisions of Section 2.6(d) shall be deemed to constitute a demand for payment thereof for the purposes of this subclause (ii)). US Borrowers promise to pay all of the US Obligations (including principal, interest, premiums, if any, fees, costs, and expenses (including Lender Group Expenses)) in full on the Maturity Date or, if earlier, on the date on which the US Obligations (other than the US Bank Product Obligations) become due and payable pursuant to the terms of this Agreement. UK Borrowers promise to pay all of the UK Obligations (including principal, interest, premiums, if any, fees, costs, and expenses (including Lender Group Expenses)) in full on the Maturity Date or, if earlier, on the date on which the UK Obligations (other than the UK Bank Product Obligations) become due and payable pursuant to the terms of this Agreement. Borrowers agree that their obligations contained in the first sentence of this Section 2.5(a) shall survive payment or satisfaction in full of all other Obligations.

(b) Any Lender may request that any portion of its Commitments or the Loans made by it be evidenced by one or more promissory notes. In such event, the applicable Borrowers shall execute and deliver to such Lender the requested promissory notes payable to the order of such Lender in a form furnished by Agent and reasonably satisfactory to Borrowers. Thereafter, the portion of the Commitments and Loans evidenced by such promissory notes and interest thereon shall at all times be represented by one or more promissory notes in such form payable to the order of the payee named therein.

2.6 **Interest Rates and Letter of Credit Fee: Rates, Payments, and Calculations.**

(a) **Interest Rates.** Except as provided in Section 2.6(c):

(i) all US Obligations (except for undrawn Letters of Credit) that have been charged to the US Loan Account pursuant to the terms hereof shall bear interest as follows:

(A) if the relevant US Obligation is a LIBOR Rate Loan, at a *per annum* rate equal to the applicable LIBOR Rate *plus* the LIBOR Rate Margin, and

(B) if the relevant Obligation is Base Rate Loan, at a *per annum* rate equal to the Base Rate *plus* the Base Rate Margin; and

(ii) all UK Obligations that have been charged to the UK Loan Account pursuant to the terms hereof shall bear interest at a rate *per annum* equal to the applicable LIBOR Rate *plus* the LIBOR Rate Margin.

(b) **Letter of Credit Fee.** Borrowers shall pay Agent (for the ratable benefit of the Revolving Lenders), a Letter of Credit fee (the "Letter of Credit Fee") (which fee shall be in addition to the fronting fees and commissions, other fees, charges and expenses set forth in Section 2.11(k)) that shall accrue at a *per annum* rate equal to the LIBOR Rate Margin times the average amount of the Letter of Credit Usage during the immediately preceding month.

(c) **Default Rate.** Automatically upon the occurrence and during the continuation of a Specified Event of Default of the type referred to in clause (d) or (e) of the definition thereof and, otherwise at the election of Agent or the Required Lenders upon the occurrence and during the continuation of a Specified Event of Default of the type referred to in clause (a) of the definition thereof,

(i) all Obligations (except for undrawn Letters of Credit) that have been charged to the applicable Loan Account pursuant to the terms hereof shall bear interest at a *per annum* rate equal to 2 percentage points above the per annum rate otherwise applicable thereunder; provided that notwithstanding any other provision herein, all amounts outstanding in excess of the Aggregate Borrowing Base shall automatically bear interest at a *per annum* rate equal to 2 percentage points above the per annum rate otherwise applicable thereunder notwithstanding any election by Agent or the Required Lenders, and

(ii) the Letter of Credit Fee shall be increased to 2 percentage points above the *per annum* rate otherwise applicable hereunder.

(d) **Payment.** Except to the extent provided to the contrary in Section 2.10, Section 2.11(k) or Section 2.12(a), (i) all interest, all Letter of Credit Fees, all fronting fees and all commissions, other fees, charges, and expenses provided for in Section 2.11(k), and all other fees payable hereunder or under any of the other Loan Documents shall be due and payable, in arrears, on the first day of each month and (ii) all costs and expenses payable hereunder or under any of the other Loan Documents, and all other Lender Group Expenses shall be due and payable on (x) with respect to Lender Group Expenses as of the Closing Date, to the extent invoiced at least three (3) Business Days prior to the Closing Date or such later date to which the Borrowers may agree, the Closing Date, and (y) otherwise, the earlier of (A) the first day of the month following the date on which the applicable costs, expenses, or Lender Group Expenses were first incurred or (B) the date on which demand therefor is made by Agent (it being acknowledged and agreed that any charging of such costs, expenses or Lender Group Expenses to the applicable Loan Account pursuant to the provisions of the following sentence shall be deemed to constitute a demand for payment thereof for the purposes of this subclause (y)). Borrowers hereby authorize Agent, from time to time without prior notice to Borrowers, to charge to the applicable Loan Account (A) on the first day of each month, all interest accrued during the prior month on the Revolving Loans hereunder, (B) on the first Business Day of each month, all Letter of Credit Fees accrued or chargeable hereunder during the prior month, (C) as and when incurred or accrued, all fees and costs provided for in Section 2.10(a) or (c), (D) on the first day of each month, the Unused Line Fee accrued during the prior month pursuant to Section 2.10(b), (E) as and when due and payable, all other fees payable hereunder or under any of the other Loan Documents, (F) on the Closing Date and thereafter, as and when incurred or accrued, all other Lender Group Expenses, and (G) as and when due and payable all other payment obligations payable under any Loan Document or any Bank Product Agreement (including any amounts due and payable to the Bank Product Providers in respect of Bank Products). All amounts (including interest, fees, costs, expenses, Lender Group Expenses, or other amounts payable hereunder or under any other Loan Document or under any Bank Product Agreement) charged to any Loan Account shall thereupon constitute US Revolving Loans or UK Revolving Loans, as the case may be, shall constitute Obligations hereunder, and shall initially accrue interest at the rate then applicable to UK Revolving Loans or, in respect of US Revolving Loans that are Base Rate Loans (unless and until converted into LIBOR Rate Loans in accordance with the terms of this Agreement).

(e) **Computation.** All interest and fees chargeable under the Loan Documents shall be computed on the basis of a 360-day year (other than computations made in respect of the Base Rate which will be made on the basis of a 365-day or 366-day year, as the case may be), in each case, for the actual number of days elapsed in the period during which the interest or fees accrue, other than for UK Revolving Loans denominated in GBP, which shall be calculated on the basis of a 365 day year for the actual days elapsed. In the event the Base Rate is changed from time to time hereafter, the rates of interest hereunder based upon the Base Rate automatically and immediately shall be increased or decreased by an amount equal to such change in the Base Rate.

(f) **Intent to Limit Charges to Maximum Lawful Rate.** In no event shall the interest rate or rates payable under this Agreement, plus any other amounts paid in connection herewith, exceed the highest rate permissible under any law that a court of competent jurisdiction shall, in a final determination, deem applicable. Borrowers and the Lender Group, in executing and delivering this Agreement, intend legally to agree upon the rate or rates of interest and manner of payment stated within it; provided, that, anything contained herein to the contrary notwithstanding, if such rate or rates of interest or manner of payment exceeds the maximum allowable under applicable law, then, *ipso facto*, as of the date of this Agreement, Borrowers are and shall be liable only for the payment of such maximum amount as is allowed by law, and payment received from Borrowers in excess of such legal maximum, whenever received, shall be applied to reduce the principal balance of the Obligations to the extent of such excess.

2.7 **Crediting Payments.** The receipt of any payment item by Agent shall not be required to be considered a payment on account unless such payment item is a wire transfer of immediately available funds in the Applicable Currency made to Agent's Applicable Account or unless and until such payment item is honored when presented for payment. Should any payment item not be honored when presented for payment, then Borrowers shall be deemed not to have made such payment. Anything to the contrary contained herein notwithstanding, any payment item shall be deemed received by Agent only if it is received into Agent's Applicable Account on a Business Day on or before 1:30 p.m. (or 3:30 p.m. (London time) in the case of payment item received into Agent's UK Account). If any payment item is received into Agent's Applicable Account on a non-Business Day or after 1:30 p.m. (or 3:30 p.m. (London Time) in the case of payments items received into Agent's UK Account) on a Business Day (unless Agent, in its sole discretion, elects to credit it on the date received), it shall be deemed to have been received by Agent as of the opening of business on the immediately following Business Day.

2.8 **Designated Account.** Agent is authorized to make the US Revolving Loans, and Issuing Bank is authorized to issue the Letters of Credit, under this Agreement based upon telephonic or other instructions received from anyone purporting to be an Authorized Person of US Administrative Borrower or, without instructions, if pursuant to Section 2.6(d). Agent is authorized to make the UK Revolving Loans under this Agreement based upon telephonic or other instructions received from anyone purporting to be an Authorized Person of UK Administrative Borrower or, without instructions, if pursuant to Section 2.6(d). US Borrowers agree to establish and maintain the US Designated Account with the US Designated Account Bank for the purpose of receiving the proceeds of the US Revolving Loans requested by US Borrowers and made by Agent or the Lenders hereunder. UK Borrowers agrees to establish and maintain the UK Designated Account with the UK Designated Account Bank for the purpose of receiving the proceeds of the UK Revolving Loans requested by UK Borrowers and made by Agent or the Lenders hereunder. Unless otherwise agreed by Agent and Borrowers, any Revolving Loan or Swing Loan requested by Borrowers and made by Agent or the Lenders hereunder shall be made to the applicable Designated Account.

2.9 **Maintenance of Loan Account; Statements of Obligations.** Agent shall maintain (a) an account on its books in the name of US Borrowers (the "US Loan Account") on which US Borrowers will be charged with all US Revolving Loans (including Extraordinary Advances and Swing Loans) made by Agent, Swing Lender, or the Lenders to US Borrowers or for US Borrowers' account, the Letters of Credit issued or arranged by Issuing Bank for US Borrowers' account, and with all other payment US Obligations hereunder or under the other Loan Documents, including, accrued interest, fees and expenses, and Lender Group Expenses with respect thereto, and (b) an account on its books in the name of UK Borrowers (the "UK Loan Account") on which UK Borrowers will be charged with and all UK Revolving Loans made by Agent or the Lenders to UK Borrowers or for UK Borrowers' account, the Letters of Credit issued or arranged by Issuing Bank for UK Borrowers' account, and with all other payment UK Obligations hereunder or under the other Loan Documents, including, accrued interest, fees and expenses, and Lender Group Expenses with respect thereto. In accordance with Section 2.7, the applicable Loan Account will be credited with all payments received by Agent from Borrowers or for Borrowers' account. Agent shall make available to US Administrative Borrower or UK Administrative Borrower, as applicable, monthly statements regarding the applicable Loan Account, including the principal amount of the applicable Revolving Loans, interest accrued hereunder, fees accrued or charged hereunder or under the other Loan Documents, and a summary itemization of all charges and expenses constituting Lender Group Expenses accrued hereunder or under the other Loan Documents, and each such statement, absent manifest error, shall be conclusively presumed to be correct and accurate and constitute an account stated between the applicable Borrowers and the Lender Group unless, within 30 days after Agent first makes such a statement available to US Administrative Borrower or UK Administrative Borrower, as the case may be Borrowers, shall deliver to Agent written objection thereto describing the error or errors contained in such statement.

2.10 **Fees.**

(a) **Agent Fees.** Borrowers shall pay to Agent, for the account of Agent, as and when due and payable under the terms of the Fee Letter, the fees set forth in the Fee Letter.

(b) **Unused Line Fee.** Borrowers shall pay to Agent, for the ratable account of the Revolving Lenders, an unused line fee (the "Unused Line Fee") in an amount equal to (i) the Applicable Unused Line Fee Percentage *per annum* times (ii) the result of (x) the aggregate amount of the Maximum Revolver Amount, *less* (y) the Quarterly Average Revolver Usage during the immediately preceding three month period (or portion thereof), which Unused Line Fee shall be due and payable on the first day of each month from and after the Closing Date up to the first day of the month prior to the date on which the Obligations are paid in full and on the date on which the Obligations are paid in full.

(c) **Field Examination and Other Fees.** Borrowers shall pay to Agent, field examination, appraisal, and valuation fees and charges, as and when incurred or chargeable, as follows (i) a fee of $1,000 per day, per examiner, *plus* out-of-pocket expenses (including travel, meals, and lodging) for each field examination of any Borrower performed by personnel employed by Agent, and (ii) the fees, charges or expenses paid or incurred by Agent (but, in any event, no less than a charge of $1,000 per day, per Person, plus out-of-pocket expenses (including travel, meals, and lodging)) if it elects to employ the services of one or more third Persons to perform field examinations of Holdings or its Subsidiaries, to establish electronic collateral reporting systems, to appraise the Collateral, or any portion thereof, or to assess any Borrower's or its Subsidiaries' business valuation; provided, that so long as no Event of Default shall have occurred and be continuing, Borrowers shall not be obligated to reimburse Agent for more than one (1) field examination and two (2) fleet appraisals (or, if Excess Availability is less than the greater of (x) 15% of the Line Cap or (y) $5,000,000 for 3 consecutive Business Days, one (1) additional field examination and one (1) additional fleet appraisal of the Collateral) during any twelve-month period; and provided further, that following the occurrence and during the continuation of an Event of Default, such field examinations and/or fleet appraisals may be conducted at the Borrowers' expense as many times as Agent shall consider reasonably necessary. Inventory appraisals shall be conducted in Agent's reasonable discretion, provided that, so long as no Event of Default shall have occurred and be continuing, the Borrowers shall not be obligated to reimburse Agent for more than one (1) Inventory appraisal during any calendar year.

2.11 **Letters of Credit.**

(a) Subject to the terms and conditions of this Agreement, upon the request of US Borrowers made in accordance herewith, and prior to the Maturity Date, US Issuing Bank agrees to issue a requested standby Letter of Credit or a sight commercial Letter of Credit for the account of US Borrowers in Dollars, and UK Issuing Bank agrees to issue a requested standby Letter of Credit or a sight Letter of Credit for the account of the UK Borrowers in an Applicable Currency (which UK Borrowers acknowledge that the UK Issuing Bank may at its option arrange for the issue of such Letter of Credit through one of its Affiliates. If such Letter of Credit is arranged through an Affiliate of a UK Issuing Bank then in such event (i) such UK Borrower authorizes the UK Issuing Bank to provide such counter-indemnities and other undertakings as the issuing institution may require and (ii) the indemnities and other protections granted to the UK Issuing Bank pursuant to this Agreement shall apply equally to the counter-indemnities and other undertakings so given by the UK Issuing Bank to the issuing institution). By submitting a request to an Issuing Bank for the issuance of a Letter of Credit, US Borrowers or the UK Borrowers, as applicable, shall be deemed to have requested that Issuing Bank issue the requested Letter of Credit. Each request for the issuance of a Letter of Credit, or the amendment, renewal, or extension of any outstanding Letter of Credit, shall be (x) irrevocable and made in writing by an Authorized Person of US Administrative Borrower or UK Administrative Borrower, (y) delivered to Agent and Issuing Bank via telefacsimile or other electronic method of transmission reasonably acceptable to Agent and Issuing Bank and reasonably in advance of the requested date of issuance, amendment, renewal, or extension, and (z) subject to Issuing Bank's authentication procedures with results satisfactory to Issuing Bank. Each such request shall be in form and substance reasonably satisfactory to Agent and Issuing Bank and (i) shall specify (A) the amount of such Letter of Credit, (B) the date of issuance, amendment, renewal, or extension of such Letter of Credit, (C) the proposed expiration date of such Letter of Credit, (D) the name and address of the beneficiary of the Letter of Credit, (E) such other information (including, the conditions to drawing, and, in the case of an amendment, renewal, or extension, identification of the Letter of Credit to be so amended, renewed, or extended) as shall be necessary to prepare, amend, renew, or extend such Letter of Credit and (F) whether such Letter of Credit is for the account of a US Borrower or a UK Borrower, and (ii) shall be accompanied by such Issuer Documents as Agent or Issuing Bank may request or require, to the extent that such requests or requirements are consistent with the Issuer Documents that Issuing Bank generally requests for Letters of Credit in similar circumstances. Issuing Bank's records of the content of any such request will be conclusive. Anything contained herein to the contrary notwithstanding, Issuing Bank may, but shall not be obligated to, issue a Letter of Credit that supports the obligations of any Borrower, Holdings or one of its Subsidiaries in respect of (x) a lease of real property, or (y) an employment contract.

(b) Issuing Bank shall have no obligation to issue a Letter of Credit if any of the following would result after giving effect to the requested issuance:

(i) the Letter of Credit Usage would exceed the Letter of Credit Sublimit, or

(ii) the Letter of Credit Usage would exceed the Maximum Revolver Amount *less* the sum of (x) the outstanding amount of US Revolving Loans (including Swing Loans), and (y) the Dollar Equivalent of the outstanding amount of UK Revolving Loans, or

(iii) in the case of Letters of Credit requested by the US Borrowers, the US Letter of Credit Usage would exceed the US Borrowing Base at such time *less* the outstanding principal balance of the US Revolving Loans (inclusive of Swing Loans) at such time or, in the case of Letters of Credit requested by the UK Borrowers, the UK Letter of Credit Usage would exceed the UK Borrowing Base at such time *less* the outstanding principal balance of the UK Revolving Loans.

(c) In the event there is a Defaulting Lender as of the date of any request for the issuance of a Letter of Credit, Issuing Bank shall not be required to issue or arrange for such Letter of Credit to the extent (i) the Defaulting Lender's Letter of Credit Exposure with respect to such Letter of Credit may not be reallocated pursuant to Section 2.3(g)(iii), or (ii) Issuing Bank has not otherwise entered into arrangements reasonably satisfactory to it and US Borrowers or UK Borrowers, as applicable to eliminate Issuing Bank's risk with respect to the participation in such Letter of Credit of the Defaulting Lender, which arrangements may include Borrowers cash collateralizing such Defaulting Lender's Letter of Credit Exposure in accordance with Section 2.3(g)(iii). Additionally, Issuing Bank shall have no obligation to issue or extend a Letter of Credit if (A) any order, judgment, or decree of any Governmental Authority or arbitrator shall, by its terms, purport to enjoin or restrain Issuing Bank from issuing such Letter of Credit, or any law applicable to Issuing Bank or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over Issuing Bank shall prohibit or request that Issuing Bank refrain from the issuance of letters of credit generally or such Letter of Credit in particular, or (B) the issuance of such Letter of Credit would violate one or more policies of Issuing Bank applicable to letters of credit generally.

(d) Any Issuing Bank (other than Wells Fargo or any of its Affiliates) shall notify Agent in writing no later than the Business Day prior to the Business Day on which such Issuing Bank issues any Letter of Credit. In addition, each Issuing Bank (other than Wells Fargo or any of its Affiliates) shall, on the first Business Day of each week, submit to Agent a report detailing the daily undrawn amount of each Letter of Credit issued by such Issuing Bank during prior calendar week. Borrowers and the Lender Group hereby acknowledge and agree that all Existing Letters of Credit shall constitute Letters of Credit under this Agreement on and after the Closing Date with the same effect as if such Existing Letters of Credit were issued by Issuing Bank at the request of Borrowers on the Closing Date. Each Letter of Credit shall be in form and substance reasonably acceptable to Issuing Bank, including the requirement that the amounts payable thereunder must be payable in Dollars or GBP, as applicable. If Issuing Bank makes a payment under a Letter of Credit, US Borrowers or UK Borrowers, as applicable shall pay to Agent an amount in Dollars equal to the Dollar Equivalent of the applicable Letter of Credit Disbursement on the Business Day such Letter of Credit Disbursement is made and, in the absence of such payment, the Dollar Equivalent amount of the Letter of Credit Disbursement immediately and automatically shall be deemed to be a US Revolving Loan or a UK Revolving Loan, as applicable, hereunder (notwithstanding any failure to satisfy any condition precedent set forth in Section 3) and, initially, shall bear interest at the rate then applicable to US Revolving Loans that are Base Rate Loans in the case of Letter of Credit requested by US Borrowers. If a Letter of Credit Disbursement is deemed to be a US Revolving Loan or UK Revolving Loan hereunder, US Borrowers' or UK Borrowers' obligation to pay the amount of such Letter of Credit Disbursement to Issuing Bank shall be automatically converted into an obligation to pay the resulting Revolving Loan. Promptly following receipt by Agent of any payment from US Borrowers or UK Borrowers pursuant to this paragraph, Agent shall distribute such payment to the applicable Issuing Bank or, to the extent that Revolving Lenders have made payments pursuant to Section 2.11(e) to reimburse Issuing Bank, then to such Revolving Lenders and Issuing Bank as their interests may appear.

(e) Promptly following receipt of a notice of a Letter of Credit Disbursement pursuant to Section 2.11(d), (i) each US Revolving Lender agrees to fund its Pro Rata Share of any US Revolving Loan deemed made pursuant to Section 2.11(d) on the same terms and conditions as if US Borrowers had requested the amount thereof as a US Revolving Loan and (ii) each UK Revolving Lender agrees to fund its Pro Rata Share of any UK Revolving Loan deemed made pursuant to Section 2.11(d) on the same terms and conditions as if UK Borrowers had requested the amount thereof as a UK Revolving Loan, and, in each case Agent shall promptly pay to the applicable Issuing Bank the amounts so received by it from the US Revolving Lenders or UK Revolving Lenders. By the issuance of a Letter of Credit (or an amendment, renewal, or extension of a Letter of Credit) and without any further action on the part of Issuing Bank or the Revolving Lenders, the applicable Issuing Bank shall be deemed to have granted to each Revolving Lender with a US Revolver Commitment or to each Revolving Lender with a UK Revolver Commitment, as applicable, and each such Revolving Lender shall be deemed to have purchased, a participation in each applicable Letter of Credit issued by the applicable Issuing Bank, in an amount equal to its Pro Rata Share of such Letter of Credit, and each such Revolving Lender agrees to pay to Agent, for the account of Issuing Bank, such Revolving Lender's Pro Rata Share of any Letter of Credit Disbursement made by Issuing Bank under the applicable Letter of Credit. In consideration and in furtherance of the foregoing, (i) each US Revolving Lender hereby absolutely and unconditionally agrees to pay to Agent, for the account of Issuing Bank, such Revolving Lender's Pro Rata Share of each Letter of Credit Disbursement made by Issuing Bank and not reimbursed by US Borrowers on the date due as provided in Section 2.11(d), and (ii) each UK Revolving Lender hereby absolutely and unconditionally agrees to pay to Agent, for the account of Issuing Bank, such Revolving Lender's Pro Rata Share of each Letter of Credit Disbursement made by Issuing Bank and not reimbursed by UK Borrowers on the date due as provided in Section 2.11(d), or, in each case, of any reimbursement payment that is required to be refunded (or that Agent or Issuing Bank elects, based upon the advice of counsel, to refund) to the UK Borrowers or the UK Borrowers for any reason. Each Revolving Lender acknowledges and agrees that its obligation to deliver to Agent, for the account of Issuing Bank, an amount equal to its respective Pro Rata Share of each Letter of Credit Disbursement pursuant to this Section 2.11(e) shall be absolute and unconditional and such remittance shall be made notwithstanding the occurrence or continuation of an Event of Default or Default or the failure to satisfy any condition set forth in Section 3. If any such Revolving Lender fails to make available to Agent the amount of such Revolving Lender's Pro Rata Share of a Letter of Credit Disbursement as provided in this Section, such Revolving Lender shall be deemed to be a Defaulting Lender and Agent (for the account of Issuing Bank) shall be entitled to recover such amount on demand from such Revolving Lender together with interest thereon at the Defaulting Lender Rate until paid in full.

(f) Each US Borrower (in the case of Letters of Credit requested by a US Borrower) and each UK Borrower (in the case of a Letters of Credit requested by a UK Borrower) agrees to indemnify, defend and hold harmless each member of the Lender Group (including the applicable Issuing Bank and its branches, Affiliates, and correspondents) and each such Person's respective directors, officers, employees, attorneys and agents (each, including Issuing Bank, a "Letter of Credit Related Person") (to the fullest extent permitted by law) from and against any and all claims, demands, suits, actions, investigations, proceedings, liabilities, fines, costs, penalties, and damages, and all reasonable fees and disbursements of attorneys, experts, or consultants and all other costs and expenses actually incurred in connection therewith or in connection with the enforcement of this indemnification (as and when they are incurred and irrespective of whether suit is brought), which may be incurred by or awarded against any such Letter of Credit Related Person (other than Taxes which shall be governed by Section 16) (the "Letter of Credit Indemnified Costs"), and which arise out of or in connection with, or as a result of:

(i) any Letter of Credit or any pre-advice of its issuance;

(ii) any transfer, sale, delivery, surrender or endorsement (or lack thereof) of any Drawing Document at any time(s) held by any such Letter of Credit Related Person in connection with any Letter of Credit;

(iii) any action or proceeding arising out of, or in connection with, any Letter of Credit (whether administrative, judicial or in connection with arbitration), including any action or proceeding to compel or restrain any presentation or payment under any Letter of Credit, or for the wrongful dishonor of, or honoring a presentation under, any Letter of Credit;

(iv) any independent undertakings issued by the beneficiary of any Letter of Credit;

(v) any unauthorized instruction or request made to Issuing Bank in connection with any Letter of Credit or requested Letter of Credit, or any error, omission, interruption or delay in such instruction or request, whether transmitted by mail, courier, electronic transmission, SWIFT, or any other telecommunication including communications through a correspondent;

(vi) an adviser, confirmer or other nominated person seeking to be reimbursed, indemnified or compensated;

(vii) any third party seeking to enforce the rights of an applicant, beneficiary, nominated person, transferee, assignee of Letter of Credit proceeds or holder of an instrument or document;

(viii) the fraud, forgery or illegal action of parties other than the Letter of Credit Related Person;

(ix) any prohibition on payment or delay in payment of any amount payable by Issuing Bank to a beneficiary or a transferee beneficiary of a Letter of Credit arising out of Anti-Corruption Laws, Anti-Money Laundering Laws, or Sanctions;

(x) Issuing Bank's performance of the obligations of a confirming institution or entity that wrongfully dishonors a confirmation;

(xi) any foreign language translation provided to Issuing Bank in connection with any Letter of Credit;

(xii) any foreign law or usage as it relates to Issuing Bank's issuance of a Letter of Credit in support of a foreign guaranty including the expiration of such guaranty after the related Letter of Credit expiration date and any resulting drawing paid by Issuing Bank in connection therewith; or

(xiii) the acts or omissions, whether rightful or wrongful, of any present or future de jure or de facto governmental or regulatory authority or cause or event beyond the control of the Letter of Credit Related Person;

provided that that such indemnity shall not be available to any Letter of Credit Related Person claiming indemnification under clauses (i) through (xiii) above to the extent that such Letter of Credit Indemnified Costs may be finally determined in a final, non-appealable judgment of a court of competent jurisdiction to have resulted directly from the gross negligence or willful misconduct of the Letter of Credit Related Person claiming indemnity. US Borrowers and UK Borrowers, as applicable hereby agree to pay the Letter of Credit Related Person claiming indemnity on demand from time to time all amounts owing under this Section 2.11(f). If and to the extent that the obligations of US Borrowers and/or the UK Borrowers under this Section 2.11(f) are unenforceable for any reason, US Borrowers and/or the UK Borrowers agree to make the maximum contribution to the Letter of Credit Indemnified Costs permissible under applicable law. This indemnification provision shall survive termination of this Agreement and all Letters of Credit.

(g) The liability of Issuing Bank (or any other Letter of Credit Related Person) under, in connection with or arising out of any Letter of Credit (or pre-advice), regardless of the form or legal grounds of the action or proceeding, shall be limited to direct damages suffered by US Borrowers or UK Borrowers, as applicable that are caused directly by Issuing Bank's gross negligence or willful misconduct in (i) honoring a presentation under a Letter of Credit that on its face does not at least substantially comply with the terms and conditions of such Letter of Credit, (ii) failing to honor a presentation under a Letter of Credit that strictly complies with the terms and conditions of such Letter of Credit or (iii) retaining Drawing Documents presented under a Letter of Credit. US Borrowers' and UK Borrowers' aggregate remedies against Issuing Bank and any Letter of Credit Related Person for wrongfully honoring a presentation under any Letter of Credit or wrongfully retaining honored Drawing Documents shall in no event exceed the aggregate amount paid by US Borrowers or UK Borrowers, as applicable to Issuing Bank in respect of the honored presentation in connection with such Letter of Credit under Section 2.11(d), plus interest at the rate then applicable to Base Rate Loans hereunder. US Borrowers and UK Borrowers shall take action to avoid and mitigate the amount of any damages claimed against Issuing Bank or any other Letter of Credit Related Person, including by enforcing its rights against the beneficiaries of the Letters of Credit. Any claim by US Borrowers and/or UK Borrowers under or in connection with any Letter of Credit shall be reduced by an amount equal to the sum of (x) the amount (if any) saved by US Borrowers and/or UK Borrowers as a result of the breach or alleged wrongful conduct complained of; and (y) the amount (if any) of the loss that would have been avoided had US Borrowers and/or UK Borrowers taken all reasonable steps to mitigate any loss, and in case of a claim of wrongful dishonor, by specifically and timely authorizing Issuing Bank to effect a cure.

(h) US Borrowers and/or UK Borrowers are responsible for the final text of the Letter of Credit as issued by Issuing Bank, irrespective of any assistance Issuing Bank may provide such as drafting or recommending text or by Issuing Bank's use or refusal to use text submitted by US Borrowers and/or UK Borrowers. US Borrowers and/or UK Borrowers understand that the final form of any Letter of Credit may be subject to such revisions and changes as are deemed necessary or appropriate by Issuing Bank, and US Borrowers and/or UK Borrowers hereby consent to such revisions and changes not materially different from the application executed in connection therewith. Borrowers are solely responsible for the suitability of the Letter of Credit for the US Borrowers' and/or UK Borrowers' purposes. If US Borrowers and/or UK Borrowers request Issuing Bank to issue a Letter of Credit for an affiliated or unaffiliated third party (an "Account Party"), (i) such Account Party shall have no rights against Issuing Bank; (ii) US Borrowers and/or UK Borrowers shall be responsible for the application and obligations under this Agreement, and (iii) communications (including notices) related to the respective Letter of Credit shall be among Issuing Bank and the Borrowers. Borrowers will examine the copy of the Letter of Credit and any other documents sent by Issuing Bank in connection therewith and shall promptly notify (not later than three (3) Business Days following US Borrowers' and/or UK Borrowers' receipt of documents from Issuing Bank) of any non-compliance with US Borrowers' and/or UK Borrowers' instructions and of any discrepancy in any document under any presentment or other irregularity. US Borrowers and/or UK Borrowers understand and agree that Issuing Bank is not required to extend the expiration date of any Letter of Credit for any reason. With respect to any Letter of Credit containing an "automatic amendment" to extend the expiration date of such Letter of Credit, Issuing Bank, in its sole and absolute discretion, may give notice of nonrenewal of such Letter of Credit and, if US Borrowers and/or UK Borrowers do not at any time want the then current expiration date of such Letter of Credit to be extended, Borrowers will so notify Agent and Issuing Bank at least thirty (30) calendar days before Issuing Bank is required to notify the beneficiary of such Letter of Credit or any advising bank of such non-extension pursuant to the terms of such Letter of Credit.

(i) Borrowers' reimbursement and payment obligations under this Section 2.11 are absolute, unconditional and irrevocable and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever, including:

(i) any lack of validity, enforceability or legal effect of any Letter of Credit, any Issuer Document, this Agreement or any Loan Document, or any term or provision therein or herein;

(ii) payment against presentation of any draft, demand or claim for payment under any Drawing Document that does not comply in whole or in part with the terms of the applicable Letter of Credit or which proves to be fraudulent, forged or invalid in any respect or any statement therein being untrue or inaccurate in any respect, or which is signed, issued or presented by a Person or a transferee of such Person purporting to be a successor or transferee of the beneficiary of such Letter of Credit;

(iii) Issuing Bank or any of its branches or Affiliates being the beneficiary of any Letter of Credit;

(iv) Issuing Bank or any correspondent honoring a drawing against a Drawing Document up to the amount available under any Letter of Credit even if such Drawing Document claims an amount in excess of the amount available under the Letter of Credit;

(v) the existence of any claim, set-off, defense or other right that any Loan Party or any of its Subsidiaries may have at any time against any beneficiary or transferee beneficiary, any assignee of proceeds, Issuing Bank or any other Person;

(vi) Issuing Bank or any correspondent honoring a drawing upon receipt of an electronic presentation under a Letter of Credit requiring the same, regardless of whether the original Drawing Documents arrive at Issuing Bank's counters or are different from the electronic presentation;

(vii) any other event, circumstance or conduct whatsoever, whether or not similar to any of the foregoing that might, but for this Section 2.11(i), constitute a legal or equitable defense to or discharge of, or provide a right of set-off against, any Borrower's or any of its Subsidiaries' reimbursement and other payment obligations and liabilities, arising under, or in connection with, any Letter of Credit, whether against Issuing Bank, the beneficiary or any other Person; or

(viii) the fact that any Default or Event of Default shall have occurred and be continuing;

provided, however, that subject to Section 2.11(g) above, the foregoing shall not release Issuing Bank from such liability to US Borrowers and/or UK Borrowers as may be finally determined in a final, non-appealable judgment of a court of competent jurisdiction against Issuing Bank following reimbursement or payment of the obligations and liabilities, including reimbursement and other payment obligations, of US Borrowers and/or UK Borrowers to Issuing Bank arising under, or in connection with, this Section 2.11 or any Letter of Credit.

(j) Without limiting any other provision of this Agreement, Issuing Bank and each other Letter of Credit Related Person (if applicable) shall not be responsible to US Borrowers for, and Issuing Bank's rights and remedies against US Borrowers or UK Borrowers and the obligation of US Borrowers to reimburse Issuing Bank for each drawing under each Letter of Credit shall not be impaired by:

(i) honor of a presentation under any Letter of Credit that on its face substantially complies with the terms and conditions of such Letter of Credit, even if the Letter of Credit requires strict compliance by the beneficiary;

(ii) honor of a presentation of any Drawing Document that appears on its face to have been signed, presented or issued (A) by any purported successor or transferee of any beneficiary or other Person required to sign, present or issue such Drawing Document or (B) under a new name of the beneficiary;

(iii) acceptance as a draft of any written or electronic demand or request for payment under a Letter of Credit, even if nonnegotiable or not in the form of a draft or notwithstanding any requirement that such draft, demand or request bear any or adequate reference to the Letter of Credit;

(iv) the identity or authority of any presenter or signer of any Drawing Document or the form, accuracy, genuineness or legal effect of any Drawing Document (other than Issuing Bank's determination that such Drawing Document appears on its face substantially to comply with the terms and conditions of the Letter of Credit);

(v) acting upon any instruction or request relative to a Letter of Credit or requested Letter of Credit that Issuing Bank in good faith believes to have been given by a Person authorized to give such instruction or request;

(vi) any errors, omissions, interruptions or delays in transmission or delivery of any message, advice or document (regardless of how sent or transmitted) or for errors in interpretation of technical terms or in translation or any delay in giving or failing to give notice to any Borrower;

(vii) any acts, omissions or fraud by, or the insolvency of, any beneficiary, any nominated person or entity or any other Person or any breach of contract between any beneficiary and any US Borrower or any of the parties to the underlying transaction to which the Letter of Credit relates;

(viii) assertion or waiver of any provision of the ISP or UCP that primarily benefits an issuer of a letter of credit, including any requirement that any Drawing Document be presented to it at a particular hour or place;

(ix) payment to any presenting bank (designated or permitted by the terms of the applicable Letter of Credit) claiming that it rightfully honored or is entitled to reimbursement or indemnity under Standard Letter of Credit Practice applicable to it;

(x) acting or failing to act as required or permitted under Standard Letter of Credit Practice applicable to where Issuing Bank has issued, confirmed, advised or negotiated such Letter of Credit, as the case may be;

(xi) honor of a presentation after the expiration date of any Letter of Credit notwithstanding that a presentation was made prior to such expiration date and dishonored by Issuing Bank if subsequently Issuing Bank or any court or other finder of fact determines such presentation should have been honored;

(xii) dishonor of any presentation that does not strictly comply or that is fraudulent, forged or otherwise not entitled to honor; or

(xiii) honor of a presentation that is subsequently determined by Issuing Bank to have been made in violation of international, federal, state or local restrictions on the transaction of business with certain prohibited Persons.

(k) US Borrowers and/or UK Borrowers shall pay immediately upon demand to Agent for the account of Issuing Bank as non-refundable fees, commissions, and charges (it being acknowledged and agreed that any charging of such fees, commissions, and charges to the US Loan Account or UK Loan Account pursuant to the provisions of Section 2.6(d) shall be deemed to constitute a demand for payment thereof for the purposes of this Section 2.11(k)): (i) a fronting fee which shall be imposed by Issuing Bank upon the issuance of each Letter of Credit of 0.125% per annum times the average amount of Letter of Credit Usage during the immediately preceding month (or portion thereof), *plus* (ii) any and all other customary commissions, fees and charges then in effect imposed by, and any and all expenses incurred by, Issuing Bank, or by any adviser, confirming institution or entity or other nominated person, relating to Letters of Credit, at the time of issuance of any Letter of Credit and upon the occurrence of any other activity with respect to any Letter of Credit (including transfers, assignments of proceeds, amendments, drawings, renewals or cancellations).

(l) If by reason of (x) any Change in Law, or (y) compliance by Issuing Bank or any other member of the Lender Group with any direction, request, or requirement (irrespective of whether having the force of law) of any Governmental Authority or monetary authority including, Regulation D of the Board of Governors as from time to time in effect (and any successor thereto):

(i) any reserve, deposit, or similar requirement is or shall be imposed or modified in respect of any Letter of Credit issued or caused to be issued hereunder or hereby, or any Loans or obligations to make Loans hereunder or hereby,

(ii) any Taxes shall be imposed (other than (A) Indemnified Taxes, (B) Taxes described in clauses (ii) through (iv) of the definition of Excluded Taxes and (C) Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document) that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes) on its loans, loan principal, Letters of Credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto, or

(iii) there shall be imposed on Issuing Bank or any other member of the Lender Group any other condition (other than Taxes) regarding any Letter of Credit, Loans, or obligations to make Loans hereunder,

and the result of the foregoing is to increase, directly or indirectly, the cost to Issuing Bank or any other member of the Lender Group of issuing, making, participating in, or maintaining any Letter of Credit or to reduce the amount receivable in respect thereof, then, and in any such case, Agent may, at any time within a reasonable period after the additional cost is incurred or the amount received is reduced, notify US Borrowers or UK Borrowers, and US Borrowers or UK Borrowers shall pay within 30 days after demand therefor, such amounts as Agent may specify to be necessary to compensate Issuing Bank or any other member of the Lender Group for such additional cost or reduced receipt, together with interest on such amount from the date of such demand until payment in full thereof at the rate then applicable to Base Rate Loans hereunder; provided, that (A) neither US Borrowers or UK Borrowers shall be required to provide any compensation pursuant to this Section 2.11(l) for any such amounts incurred more than 180 days prior to the date on which the demand for payment of such amounts is first made to US Borrowers or UK Borrowers, and (B) if an event or circumstance giving rise to such amounts is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof. The determination by Agent of any amount due pursuant to this Section 2.11(l), as set forth in a certificate setting forth the calculation thereof in reasonable detail, shall, in the absence of manifest or demonstrable error, be final and conclusive, and binding on all parties hereto.

(m) Each Letter of Credit shall expire not later than the date that is twelve (12) months after the date of the issuance of such Letter of Credit; provided, that any Letter of Credit may provide for the automatic extension thereof for any number of additional periods each of up to one year in duration; provided further, that with respect to any Letter of Credit which extends beyond the Maturity Date, Letter of Credit Collateralization shall be provided therefor on or before the date that is five (5) Business Days prior to the Maturity Date. Each commercial Letter of Credit shall expire on the earlier of (i) 120 days after the date of the issuance of such commercial Letter of Credit and (ii) five (5) Business Days prior to the Maturity Date.

(n) If (i) any Event of Default shall occur and be continuing, or (ii) Excess Availability shall at any time be less than zero, then on the Business Day following the date when the US Administrative Borrower or UK Administrative Borrower receives notice from Agent or the Required Lenders (or, if the maturity of the Obligations has been accelerated, Revolving Lenders with Letter of Credit Exposure representing greater than 50% of the total Letter Credit Exposure) demanding Letter of Credit Collateralization pursuant to this Section 2.11(n) upon such demand, Borrowers shall provide Letter of Credit Collateralization with respect to the then existing Letter of Credit Usage. If US Borrowers or UK Borrowers are required to provide Letter of Credit Collateralization hereunder as a result of the occurrence of an Event of Default, any cash collateral held by Agent as a result of such Letter of Credit Collateralization shall be returned by Agent to US Borrowers or UK Borrowers promptly, but in no event later than seven (7) Business Days, after such Event of Default has been cured or waived in accordance with this Agreement. If US Borrowers or UK Borrowers fail to provide Letter of Credit Collateralization as required by this Section 2.11(n), the Revolving Lenders may (and, upon direction of Agent, shall) advance, as Revolving Loans the amount of the cash collateral required pursuant to the Letter of Credit Collateralization provision so that the then existing Letter of Credit Usage is cash collateralized in accordance with the Letter of Credit Collateralization provision (whether or not the Revolver Commitments have terminated, an Overadvance exists or the conditions in Section 3 are satisfied).

(o) Unless otherwise expressly agreed by Issuing Bank and Borrowers when a Letter of Credit is issued (including any such agreement applicable to a Letter of Credit), (i) the rules of the ISP shall apply to each standby Letter of Credit, and (ii) the rules of the UCP shall apply to each commercial Letter of Credit.

(p) Issuing Bank shall be deemed to have acted with due diligence and reasonable care if Issuing Bank's conduct is in accordance with Standard Letter of Credit Practice or in accordance with this Agreement.

(q) In the event of a direct conflict between the provisions of this Section 2.11 and any provision contained in any Issuer Document, it is the intention of the parties hereto that such provisions be read together and construed, to the fullest extent possible, to be in concert with each other. In the event of any actual, irreconcilable conflict that cannot be resolved as aforesaid, the terms and provisions of this Section 2.11 shall control and govern.

(r) The provisions of this Section 2.11 shall survive the termination of this Agreement and the repayment in full of the Obligations with respect to any Letters of Credit that remain outstanding (and for so long as such Letters of Credit remain outstanding).

(s) At US Borrowers' or UK Borrowers' costs and expense, US Borrowers or UK Borrowers shall execute and deliver to Issuing Bank such additional certificates, instruments and/or documents and take such additional action as may be reasonably requested by Issuing Bank to enable Issuing Bank to issue any Letter of Credit pursuant to this Agreement and related Issuer Document, to protect, exercise and/or enforce Issuing Banks' rights and interests under this Agreement or to give effect to the terms and provisions of this Agreement or any Issuer Document. Each US Borrower and UK Borrower irrevocably appoints Issuing Bank as its attorney-in-fact and authorizes Issuing Bank, without notice to US Borrowers or UK Borrowers, to execute and deliver ancillary documents and letters customary in the letter of credit business that may include but are not limited to advisements, indemnities, checks, bills of exchange and issuance documents. The power of attorney granted by the US Borrowers and UK Borrowers US is limited solely to such actions related to the issuance, confirmation or amendment of any Letter of Credit and to ancillary documents or letters customary in the letter of credit business. This appointment is coupled with an interest.

2.12 **LIBOR Option.**

(a) **Interest and Interest Payment Dates.** In lieu of having interest charged at the rate based upon the Base Rate, US Borrowers shall have the option, subject to Section 2.12(b) below (the "LIBOR Option") to have interest on all or a portion of the US Revolving Loans be charged (whether at the time when made (unless otherwise provided herein), upon conversion from a Base Rate Loan to a LIBOR Rate Loan, or upon continuation of a LIBOR Rate Loan as a LIBOR Rate Loan) at a rate of interest based upon the LIBOR Rate. Interest on LIBOR Rate Loans shall be payable on the earliest of (i) the last day of the Interest Period applicable thereto; provided that subject to the following clauses (ii) and (iii), in the case of any Interest Period greater than three (3) months in duration, interest shall be payable at three (3) month intervals after the commencement of the applicable Interest Period and on the last day of such Interest Period, (ii) the date on which all or any portion of the Obligations are accelerated pursuant to the terms hereof, or (iii) the date on which this Agreement is terminated pursuant to the terms hereof. With respect to any US Revolving Loan, on the last day of each applicable Interest Period, unless US Borrowers have properly exercised the LIBOR Option with respect thereto, the interest rate applicable to such LIBOR Rate Loan automatically shall convert to the rate of interest then applicable to Base Rate Loans of the same type hereunder. At any time that an Event of Default has occurred and is continuing, Borrowers no longer shall have the option to request that Revolving Loans bear interest at a rate based upon the LIBOR Rate.

(b) **LIBOR Election.**

(i) US Borrowers may, at any time and from time to time, so long as no Event of Default has occurred and is continuing, elect to exercise the LIBOR Option by notifying Agent prior to 11:00 a.m. at least three (3) Business Days prior to the commencement of the proposed Interest Period (the "LIBOR Deadline"). Notice of Borrowers' election of the LIBOR Option by the applicable US Borrowers for a permitted portion of the US Revolving Loans and an Interest Period pursuant to this Section shall be made by delivery to Agent of a LIBOR Notice received by Agent before the LIBOR Deadline. Promptly upon its receipt of each such LIBOR Notice, Agent shall provide a copy thereof to each of the affected Lenders.

(ii) Each LIBOR Notice shall be irrevocable and binding on the applicable US Borrowers. In connection with each LIBOR Rate Loan, each Borrower shall indemnify, defend, and hold Agent and the applicable Lenders harmless against any loss, cost, or expense actually incurred by Agent or any such Lender as a result of (A) the payment or required assignment of any principal of any LIBOR Rate Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (B) the conversion of any LIBOR Rate Loan other than on the last day of the Interest Period applicable thereto, or (C) the failure to borrow, convert, continue or prepay any LIBOR Rate Loan on the date specified in any LIBOR Notice delivered pursuant hereto (such losses, costs, or expenses, "Funding Losses"). A certificate of Agent or a Lender delivered to the applicable US Borrowers setting forth in reasonable detail any amount or amounts that Agent or such Lender is entitled to receive pursuant to this Section 2.12 shall be conclusive absent manifest error. The applicable US Borrowers shall pay such amount to Agent or the Lender, as applicable, within 30 days of the date of its receipt of such certificate. If a payment of a LIBOR Rate Loan on a day other than the last day of the applicable Interest Period would result in a Funding Loss, Agent may, in its sole discretion at the request of the applicable US Borrowers, hold the amount of such payment as cash collateral in support of the US Obligations until the last day of such Interest Period and apply such amounts to the payment of the applicable LIBOR Rate Loan on such last day, it being agreed that Agent has no obligation to so defer the application of payments to any LIBOR Rate Loan and that, in the event that Agent does not defer such application, the applicable Borrowers shall be obligated to pay any resulting Funding Losses.

(iii) Unless Agent, in its sole discretion, agrees otherwise, Borrowers shall have not more than ten (10) LIBOR Rate Loans in effect at any given time. Borrowers may only exercise the LIBOR Option for proposed LIBOR Rate Loans of at least $1,000,000.

(c) **Conversion; Prepayment.** US Borrowers may convert LIBOR Rate Loans to Base Rate Loans or prepay LIBOR Rate Loans at any time; provided, that in the event that LIBOR Rate Loans are converted or prepaid on any date that is not the last day of the Interest Period applicable thereto, including as a result of any prepayment through the required application by Agent of any payments or proceeds of Collateral in accordance with Section 2.4(b) or for any other reason, including early termination of the term of this Agreement or acceleration of all or any portion of the Obligations pursuant to the terms hereof, each Borrower shall indemnify, defend, and hold Agent and the Lenders and their Participants harmless against any and all Funding Losses in accordance with Section 2.12 (b)(ii).

(d) **Special Provisions Applicable to LIBOR Rate.**

(i) The LIBOR Rate may be adjusted by Agent with respect to any Lender on a prospective basis to take into account any additional or increased costs to such Lender of maintaining or obtaining any eurodollar deposits, any other Applicable Currency deposits or increased costs (other than Taxes which shall be governed by Section 16), in each case, due to changes in applicable law occurring subsequent to the commencement of the then applicable Interest Period, including any Changes in Law and changes in the reserve requirements imposed by the Board of Governors, which additional or increased costs would increase the cost of funding or maintaining loans bearing interest at the LIBOR Rate. In any such event, the affected Lender shall give Borrowers and Agent notice of such a determination and adjustment and Agent promptly shall transmit the notice to each other Lender and, upon its receipt of the notice from the affected Lender, Borrowers may, by notice to such affected Lender (A) require such Lender to furnish to Borrowers a statement setting forth in reasonable detail the basis for adjusting such LIBOR Rate and the method for determining the amount of such adjustment, or (B) repay the LIBOR Rate Loans of such Lender with respect to which such adjustment is made (together with any amounts due under Section 2.12(b)(ii)).

(ii) Subject to clause (iii) below, in the event that any change in market conditions or any Change in Law shall at any time after the date hereof, in the reasonable opinion of any Lender, make it unlawful or impractical for such Lender to fund or maintain LIBOR Rate Loans or to continue such funding or maintaining, or to determine or charge interest rates at the LIBOR Rate, (x) such Lender shall give notice of such changed circumstances to Agent and Borrowers and Agent promptly shall transmit the notice to each other Lender and (y) in the case of any LIBOR Rate Loans of such Lender that are outstanding, the date specified in such Lender's notice shall be deemed to be the last day of the Interest Period of such LIBOR Rate Loans, and interest upon the LIBOR Rate Loans of such Lender thereafter shall accrue interest at the rate then applicable to Base Rate Loans, and (z) Borrowers shall not be entitled to elect the LIBOR Option until such Lender determines that it would no longer be unlawful or impractical to do so.

(iii) If at any time the Agent determines (which determination shall be conclusive absent manifest error), or the Borrowers reasonably determine, or the Required Lenders notify the Agent (with a copy to the Borrowers) that the Required Lenders have determined that (A) adequate and reasonable means do not exist for ascertaining the LIBOR Rate for any requested Interest Period, including, without limitation, because the LIBOR Rate is not available or published on a current basis and such circumstances are unlikely to be temporary; or (B) the administrator of the LIBOR Rate or a Governmental Authority having jurisdiction over the Agent has made a public statement identifying a specific date after which the LIBOR Rate shall no longer be made available, or used for determining the interest rate of loans (such specific date, the "Scheduled Unavailability Date"), then the Agent and the Borrowers shall endeavor to establish an alternate rate of interest to the LIBOR Rate that gives due consideration to any selection, endorsement or recommendation of a replacement rate and/or replacement spread or the mechanism for determining such a rate or spread by the relevant Governmental Authority at such time, and shall enter into an amendment to this Agreement to reflect such alternate rate of interest, an appropriate adjustment to the Applicable Margin, if any, and such other related changes to this Agreement as may be applicable; provided that, if such alternate rate of interest shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement. Notwithstanding anything to the contrary in Section 14.1, such amendment shall become effective without any further action or consent of any other party to this Agreement so long as the Agent shall not have received, within five (5) Business Days of the date a copy of such amendment is provided to the Lenders, written notice from the Required Lenders stating that such Required Lenders object to such amendment. If no such alternate rate has been determined and the circumstances under clause (A) above exist or the Scheduled Unavailability Date has occurred (as applicable), the Agent will promptly so notify the Borrowers and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain LIBOR Rate Loans shall be suspended (to the extent of the affected LIBOR Rate Loans or Interest Periods) (it being understood that this provision shall not limit or otherwise relieve the Lenders' obligations to make UK Revolving Loans on the terms and subject to the conditions of this Agreement), (y) the LIBOR Rate component shall no longer be utilized in determining the Base Rate, and (z) for so long as an alternative rate has not been determined in accordance herewith, all outstanding Obligations (including, for the avoidance of doubt, UK Obligations) will bear interest, and all Loans (including, for the avoidance of doubt, UK Revolving Loans) will be made, at a rate per annum equal to the Base Rate *plus* the Base Rate Margin. Upon receipt of such notice, the Borrower may revoke any pending request for a Loan of, conversion to or continuation of LIBOR Rate Loans (to the extent of the affected LIBOR Rate Loans or Interest Periods) or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans (subject to the foregoing clause (y)) in the amount specified therein.

(e) **No Requirement of Matched Funding.** Anything to the contrary contained herein notwithstanding, neither Agent, nor any Lender, nor any of their Participants, is required actually to acquire eurodollar deposits or any other Applicable Currency deposits to fund or otherwise match fund any Obligation as to which interest accrues at the LIBOR Rate.

2.13 **Capital Requirements.**

(a) If, after the date hereof, Issuing Bank or any Lender determines that (i) any Change in Law regarding capital, liquidity or reserve requirements for banks or bank holding companies, or (ii) compliance by Issuing Bank or such Lender, or their respective parent bank holding companies, with any guideline, request or directive of any Governmental Authority regarding capital adequacy or liquidity requirements (whether or not having the force of law), has the effect of reducing the return on Issuing Bank's, such Lender's, or such holding companies' capital or liquidity as a consequence of Issuing Bank's or such Lender's commitments, Loans, participations or other obligations hereunder to a level below that which Issuing Bank, such Lender, or such holding companies could have achieved but for such Change in Law or compliance (taking into consideration Issuing Bank's, such Lender's, or such holding companies' then existing policies with respect to capital adequacy or liquidity requirements and assuming the full utilization of such entity's capital) by any amount deemed by Issuing Bank or such Lender to be material, then Issuing Bank or such Lender may notify Borrowers and Agent thereof. Following receipt of such notice, the applicable Borrowers agree to pay Issuing Bank or such Lender on demand the amount of such reduction of return of capital as and when such reduction is determined, payable within 30 days after presentation by Issuing Bank or such Lender of a statement in the amount and setting forth in reasonable detail Issuing Bank's or such Lender's calculation thereof and the assumptions upon which such calculation was based (which statement shall be deemed true and correct absent manifest error). In determining such amount, Issuing Bank or such Lender may use any reasonable averaging and attribution methods. Failure or delay on the part of Issuing Bank or any Lender to demand compensation pursuant to this Section shall not constitute a waiver of Issuing Bank's or such Lender's right to demand such compensation; provided that Borrowers shall not be required to compensate Issuing Bank or a Lender pursuant to this Section for any reductions in return incurred more than 180 days prior to the date that Issuing Bank or such Lender notifies Borrowers of such Change in Law giving rise to such reductions and of such Lender's intention to claim compensation therefor; provided further that if such claim arises by reason of the Change in Law that is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

(b) If Issuing Bank or any Lender requests additional or increased costs referred to in Section 2.11(l) or Section 2.12(d)(i) or amounts under Section 2.13(a) or sends a notice under Section 2.12(d)(ii) relative to changed circumstances (such Issuing Bank or Lender, an "Affected Lender"), then, at the request of any Borrower, such Affected Lender shall use reasonable efforts to promptly designate a different one of its lending offices or to assign its rights and obligations hereunder to another of its offices or branches, if (i) in the reasonable judgment of such Affected Lender, such designation or assignment would eliminate or reduce amounts payable pursuant to Section 2.11(l), Section 2.12(d)(i) or Section 2.13(a), as applicable, or would eliminate the illegality or impracticality of funding or maintaining LIBOR Rate Loans and (ii) in the reasonable judgment of such Affected Lender, such designation or assignment would not subject such Affected Lender to any material unreimbursed cost or expense and would not otherwise be materially disadvantageous to it. The applicable Borrowers agree to pay all reasonable out-of-pocket costs and expenses incurred by such Affected Lender in connection with any such designation or assignment. If, after such reasonable efforts, such Affected Lender does not so designate a different one of its lending offices or assign its rights to another of its offices or branches so as to eliminate Borrowers' obligation to pay any future amounts to such Affected Lender pursuant to Section 2.11(l), Section 2.12(d)(i) or Section 2.13(a), as applicable, or to enable the applicable Borrowers to obtain LIBOR Rate Loans, then Borrowers (without prejudice to any amounts then due to such Affected Lender under Section 2.11(l), Section 2.12(d)(i) or Section 2.13(a), as applicable) may, unless prior to the effective date of any such assignment the Affected Lender withdraws its request for such additional amounts under Section 2.11(l), Section 2.12(d)(i) or Section 2.13(a), as applicable, or indicates that it is no longer unlawful or impractical to fund or maintain LIBOR Rate Loans, may designate a different Issuing Bank or substitute a Lender or prospective Lender, in each case, reasonably acceptable to Agent and the Borrowers to purchase the Obligations owed to such Affected Lender and such Affected Lender's commitments hereunder (a "Replacement Lender"), and if such Replacement Lender agrees to such purchase, such Affected Lender shall assign to the Replacement Lender its Obligations and commitments, and upon such purchase by the Replacement Lender, which such Replacement Lender shall be deemed to be "Issuing Bank" or a "Lender" (as the case may be) for purposes of this Agreement and such Affected Lender shall cease to be "Issuing Bank" or a "Lender" (as the case may be) for purposes of this Agreement.

(c) Notwithstanding anything herein to the contrary, the protection of Sections 2.11(l), 2.12(d), and 2.13 shall be available to Issuing Bank and each Lender (as applicable) regardless of any possible contention of the invalidity or inapplicability of the law, rule, regulation, judicial ruling, judgment, guideline, treaty or other change or condition which shall have occurred or been imposed, so long as it shall be customary for issuing banks or lenders affected thereby to comply therewith. Notwithstanding any other provision herein, neither Issuing Bank nor any Lender shall demand compensation pursuant to this Section 2.13 if it shall not at the time be the general policy or practice of Issuing Bank or such Lender (as the case may be) to demand such compensation in similar circumstances under comparable provisions of other credit agreements, if any.

2.14 **Joint and Several Liability of Borrowers with Respect to UK Obligations.**

(a) In consideration of the financial accommodations to be provided by the Lender Group under this Agreement in respect of the UK Obligations, each Borrower is accepting joint and several liability hereunder and under the other Loan Documents in respect of the UK Obligations, for the mutual benefit, directly and indirectly, of each Borrower and in consideration of the undertakings of the other Borrowers to accept joint and several liability for the UK Obligations.

(b) Each Borrower, jointly and severally, hereby irrevocably and unconditionally accepts, not merely as a surety but also as a co-debtor, joint and several liability with the other Borrowers, with respect to the payment and performance of all of the UK Obligations (including any UK Obligations arising under this Section 2.14), it being the intention of the parties hereto that all the UK Obligations shall be the joint and several obligations of each Borrower without preferences or distinction among them. Accordingly, each Borrower hereby waives any and all suretyship defenses that would otherwise be available to such Borrower under applicable law.

(c) If and to the extent that any Borrower shall fail to make any payment with respect to any of the UK Obligations as and when due, whether upon maturity, acceleration, or otherwise, or to perform any of the UK Obligations in accordance with the terms thereof, then in each such event the other Borrowers will make such payment with respect to, or perform, such UK Obligation until such time as all of the UK Obligations are paid in full, and without the need for demand, protest, or any other notice or formality.

(d) The UK Obligations of each Borrower under the provisions of this Section 2.14 constitute the absolute and unconditional, full recourse UK Obligations of each Borrower enforceable against each Borrower to the full extent of its properties and assets, irrespective of the validity, regularity or enforceability of the provisions of this Agreement (other than this Section 2.14(d)) or any other circumstances whatsoever.

(e) Without limiting the generality of the foregoing and except as otherwise expressly provided in this Agreement, each Borrower hereby waives presentments, demands for performance, protests and notices, including notices of acceptance of its joint and several liability, notice of any UK Revolving Loans issued under or pursuant to this Agreement, notice of the occurrence of any Default, Event of Default, notices of nonperformance, notices of protest, notices of dishonor, notices of acceptance of this Agreement, notices of the existence, creation, or incurring of new or additional Obligations or other financial accommodations or of any demand for any payment under this Agreement, notice of any action at any time taken or omitted by Agent or Lenders under or in respect of any of the UK Obligations, any right to proceed against any other Borrower or any other Person, to proceed against or exhaust any security held from any other Borrower or any other Person, to protect, secure, perfect, or insure any security interest or Lien on any property subject thereto or exhaust any right to take any action against any other Borrower, any other Person, or any collateral, to pursue any other remedy in any member of the Lender Group's or any Bank Product Provider's power whatsoever, any requirement of diligence or to mitigate damages and, generally, to the extent permitted by applicable law, all demands, notices and other formalities of every kind in connection with this Agreement (except as otherwise provided in this Agreement), any right to assert against any member of the Lender Group or any Bank Product Provider, any defense (legal or equitable), set-off, counterclaim, or claim which each Borrower may now or at any time hereafter have against any other Borrower or any other party liable to any member of the Lender Group or any Bank Product Provider, any defense, set-off, counterclaim, or claim, of any kind or nature, arising directly or indirectly from the present or future lack of perfection, sufficiency, validity, or enforceability of the Obligations or any security therefor, and any right or defense arising by reason of any claim or defense based upon an election of remedies by any member of the Lender Group or any Bank Product Provider including any defense based upon an impairment or elimination of such Borrower's rights of subrogation, reimbursement, contribution, or indemnity of such Borrower against any other Borrower. Without limiting the generality of the foregoing, each Borrower hereby assents to, and waives notice of, any extension or postponement of the time for the payment of any of the UK Obligations, the acceptance of any payment of any of the UK Obligations, the acceptance of any partial payment thereon, any waiver, consent or other action or acquiescence by Agent or Lenders at any time or times in respect of any default by any Borrower in the performance or satisfaction of any term, covenant, condition or provision of this Agreement, any and all other indulgences whatsoever by Agent or Lenders in respect of any of the UK Obligations, and the taking, addition, substitution or release, in whole or in part, at any time or times, of any security for any of the UK Obligations or the addition, substitution or release, in whole or in part, of any Borrower. Without limiting the generality of the foregoing, each Borrower assents to any other action or delay in acting or failure to act on the part of any Agent or Lender with respect to the failure by any Borrower to comply with any of its respective UK Obligations, including any failure strictly or diligently to assert any right or to pursue any remedy or to comply fully with applicable laws or regulations thereunder, which might, but for the provisions of this Section 2.14 afford grounds for terminating, discharging or relieving any Borrower, in whole or in part, from any of its UK Obligations under this Section 2.14, it being the intention of each Borrower that, so long as any of the UK Obligations hereunder remain unsatisfied, the UK Obligations of each Borrower under this Section 2.14 shall not be discharged except by performance and then only to the extent of such performance. The UK Obligations of each Borrower under this Section 2.14 shall not be diminished or rendered unenforceable by any winding up, reorganization, arrangement, liquidation, reconstruction or similar proceeding with respect to any other Borrower or any Agent or Lender. Each of the Borrowers waives, to the fullest extent permitted by law, the benefit of any statute of limitations affecting its liability hereunder or the enforcement hereof. Any payment by any Borrower or other circumstance which operates to toll any statute of limitations as to any Borrower shall operate to toll the statute of limitations as to each of the Borrowers. Each of the Borrowers waives any defense based on or arising out of any defense of any Borrower or any other Person, other than payment of the UK Obligations to the extent of such payment, based on or arising out of the disability of any Borrower or any other Person, or the validity, legality, or unenforceability of the UK Obligations or any part thereof from any cause, or the cessation from any cause of the liability of any Borrower other than payment of the UK Obligations to the extent of such payment. Agent may, when and Event of Default has occurred and is continuing and at the election of the Required Lenders, foreclose upon any Collateral held by Agent by one or more judicial or nonjudicial sales or other dispositions, whether or not every aspect of any such sale is commercially reasonable or otherwise fails to comply with applicable law or may exercise any other right or remedy Agent, any other member of the Lender Group, or any Bank Product Provider may have against any Borrower or any other Person, or any security, in each case, without affecting or impairing in any way the liability of any of the Borrowers hereunder except to the extent the UK Obligations have been paid.

(f) Each Borrower represents and warrants to Agent and Lenders that such Borrower is currently informed of the financial condition of Borrowers and of all other circumstances which a diligent inquiry would reveal and which bear upon the risk of nonpayment of the UK Obligations. Each Borrower further represents and warrants to Agent and Lenders that such Borrower has read and understands the terms and conditions of the Loan Documents. Each Borrower hereby covenants that such Borrower will continue to keep informed of Borrowers' financial condition and of all other circumstances which bear upon the risk of nonpayment or nonperformance of the UK Obligations.

(g) The provisions of this Section 2.14 are made for the benefit of Agent, each member of the Lender Group, each Bank Product Provider, and their respective successors and assigns, and may be enforced by it or them from time to time against any or all Borrowers as often as occasion therefor may arise and without requirement on the part of Agent, any member of the Lender Group, any Bank Product Provider, or any of their successors or assigns first to marshal any of its or their claims or to exercise any of its or their rights against any Borrower or to exhaust any remedies available to it or them against any Borrower or to resort to any other source or means of obtaining payment of any of the UK Obligations hereunder or to elect any other remedy. The provisions of this Section 2.14 shall remain in effect until all of the UK Obligations shall have been paid in full or otherwise fully satisfied. If at any time, any payment, or any part thereof, made in respect of any of the UK Obligations, is rescinded or must otherwise be restored or returned by Agent or any Lender upon the insolvency, bankruptcy or reorganization of any Borrower, or otherwise, the provisions of this Section 2.14 will forthwith be reinstated in effect, as though such payment had not been made.

(h) Each Borrower hereby agrees that it will not enforce any of its rights that arise from the existence, payment, performance or enforcement of the provisions of this Section 2.14, including rights of subrogation, reimbursement, exoneration, contribution or indemnification and any right to participate in any claim or remedy of Agent, any other member of the Lender Group, or any Bank Product Provider against any Borrower, whether or not such claim, remedy or right arises in equity or under contract, statute or common law, including the right to take or receive from any Borrower, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security solely on account of such claim, remedy or right, unless and until such time as all of the UK Obligations have been paid in full in cash. Any claim which any Borrower may have against any other Borrower with respect to any payments to any Agent or any member of the Lender Group hereunder or under any of the Bank Product Agreements are hereby expressly made subordinate and junior in right of payment, without limitation as to any increases in the UK Obligations arising hereunder or thereunder, to the prior payment in full in cash of the UK Obligations and, in the event of any insolvency, bankruptcy, receivership, liquidation, reorganization or other similar proceeding under the laws of any jurisdiction relating to any Borrower, its debts or its assets, whether voluntary or involuntary, all such UK Obligations shall be paid in full in cash before any payment or distribution of any character, whether in cash, securities or other property, shall be made to any other Borrower therefor. If any amount shall be paid to any Borrower in violation of the immediately preceding sentence, such amount shall be held in trust for the benefit of Agent, for the benefit of the Lender Group and the Bank Product Providers, and shall forthwith be paid to Agent to be credited and applied to the UK Obligations and all other amounts payable under this Agreement, whether matured or unmatured, in accordance with the terms of this Agreement, or to be held as Collateral for any UK Obligations or other amounts payable under this Agreement thereafter arising. Notwithstanding anything to the contrary contained in this Agreement, no Borrower may exercise any rights of subrogation, contribution, indemnity, reimbursement or other similar rights against, and may not proceed or seek recourse against or with respect to any property or asset of, any Foreclosed Borrower, including after payment in full of the UK Obligations, if all or any portion of the UK Obligations have been satisfied in connection with an exercise of remedies in respect of the Equity Interests of such Foreclosed Borrower whether pursuant to this Agreement or otherwise.

2.15 **Joint and Several Liability of US Borrowers with respect to Obligations**.

(a) In consideration of the financial accommodations to be provided by the Lender Group under this Agreement in respect of the Obligations, each US Borrower is accepting joint and several liability hereunder and under the other Loan Documents in respect of the Obligations, for the mutual benefit, directly and indirectly, of each Borrower and in consideration of the undertakings of the other Borrowers to accept joint and several liability for the Obligations.

(b) Each US Borrower, jointly and severally, hereby irrevocably and unconditionally accepts, not merely as a surety but also as a co-debtor, joint and several liability with the other US Borrowers, with respect to the payment and performance of all of the Obligations (including any Obligations arising under this Section 2.15), it being the intention of the parties hereto that all the Obligations shall be the joint and several obligations of each US Borrower without preferences or distinction among them. Accordingly, each US Borrower hereby waives any and all suretyship defenses that would otherwise be available to such US Borrower under applicable law.

(c) If and to the extent that any Borrower shall fail to make any payment with respect to any of the Obligations as and when due, whether upon maturity, acceleration, or otherwise, or to perform any of the Obligations in accordance with the terms thereof, then in each such event the US Borrowers will make such payment with respect to, or perform, such Obligation until such time as all of the Obligations are paid in full, and without the need for demand, protest, or any other notice or formality.

(d) The Obligations of each US Borrower under the provisions of this Section 2.15 constitute the absolute and unconditional, full recourse Obligations of each US Borrower enforceable against each US Borrower to the full extent of its properties and assets, irrespective of the validity, regularity or enforceability of the provisions of this Agreement (other than this Section 2.15(d)) or any other circumstances whatsoever.

(e) Without limiting the generality of the foregoing and except as otherwise expressly provided in this Agreement, each US Borrower hereby waives presentments, demands for performance, protests and notices, including notices of acceptance of its joint and several liability, notice of any US Revolving Loans or Letters of Credit issued under or pursuant to this Agreement, notice of the occurrence of any Default, Event of Default, notices of nonperformance, notices of protest, notices of dishonor, notices of acceptance of this Agreement, notices of the existence, creation, or incurring of new or additional Obligations or other financial accommodations or of any demand for any payment under this Agreement, notice of any action at any time taken or omitted by Agent or Lenders under or in respect of any of the Obligations, any right to proceed against any other Borrower or any other Person, to proceed against or exhaust any security held from any other Borrower or any other Person, to protect, secure, perfect, or insure any security interest or Lien on any property subject thereto or exhaust any right to take any action against any other Borrower, any other Person, or any collateral, to pursue any other remedy in any member of the Lender Group's or any Bank Product Provider's power whatsoever, any requirement of diligence or to mitigate damages and, generally, to the extent permitted by applicable law, all demands, notices and other formalities of every kind in connection with this Agreement (except as otherwise provided in this Agreement), any right to assert against any member of the Lender Group or any Bank Product Provider, any defense (legal or equitable), set-off, counterclaim, or claim which each US Borrower may now or at any time hereafter have against any other US Borrower or any other party liable to any member of the Lender Group or any Bank Product Provider, any defense, set-off, counterclaim, or claim, of any kind or nature, arising directly or indirectly from the present or future lack of perfection, sufficiency, validity, or enforceability of the US Obligations or any security therefor, and any right or defense arising by reason of any claim or defense based upon an election of remedies by any member of the Lender Group or any Bank Product Provider including any defense based upon an impairment or elimination of such Borrower's rights of subrogation, reimbursement, contribution, or indemnity of such US Borrower against any other US Borrower. Without limiting the generality of the foregoing, each US Borrower hereby assents to, and waives notice of, any extension or postponement of the time for the payment of any of the US Obligations, the acceptance of any payment of any of the Obligations, the acceptance of any partial payment thereon, any waiver, consent or other action or acquiescence by Agent or Lenders at any time or times in respect of any default by any Borrower in the performance or satisfaction of any term, covenant, condition or provision of this Agreement, any and all other indulgences whatsoever by Agent or Lenders in respect of any of the Obligations, and the taking, addition, substitution or release, in whole or in part, at any time or times, of any security for any of the Obligations or the addition, substitution or release, in whole or in part, of any Borrower. Without limiting the generality of the foregoing, each US Borrower assents to any other action or delay in acting or failure to act on the part of any Agent or Lender with respect to the failure by any Borrower to comply with any of its respective Obligations, including, without limitation, any failure strictly or diligently to assert any right or to pursue any remedy or to comply fully with applicable laws or regulations thereunder, which might, but for the provisions of this Section 2.15 afford grounds for terminating, discharging or relieving any Borrower, in whole or in part, from any of its Obligations under this Section 2.15, it being the intention of each US Borrower that, so long as any of the Obligations hereunder remain unsatisfied, the Obligations of each US Borrower under this Section 2.15 shall not be discharged except by performance and then only to the extent of such performance. The Obligations of each US Borrower under this Section 2.15 shall not be diminished or rendered unenforceable by any winding up, reorganization, arrangement, liquidation, reconstruction or similar proceeding with respect to any other US Borrower or any Agent or Lender. Each of the US Borrowers waives, to the fullest extent permitted by law, the benefit of any statute of limitations affecting its liability hereunder or the enforcement hereof. Any payment by any US Borrower or other circumstance which operates to toll any statute of limitations as to any US Borrower shall operate to toll the statute of limitations as to each of the US Borrowers. Each of the US Borrowers waives any defense based on or arising out of any defense of any US Borrower or any other Person, other than payment of the Obligations to the extent of such payment, based on or arising out of the disability of any US Borrower or any other Person, or the validity, legality, or unenforceability of the Obligations or any part thereof from any cause, or the cessation from any cause of the liability of any US Borrower other than payment of the Obligations to the extent of such payment. Agent may, when an Event of Default has occurred and is continuing, at the election of the Required Lenders, foreclose upon any Collateral held by Agent by one or more judicial or nonjudicial sales or other dispositions, whether or not every aspect of any such sale is commercially reasonable or otherwise fails to comply with applicable law or may exercise any other right or remedy Agent, any other member of the Lender Group, or any Bank Product Provider may have against any US Borrower or any other Person, or any security, in each case, without affecting or impairing in any way the liability of any of the US Borrowers hereunder except to the extent the Obligations have been paid.

(f) Each US Borrower represents and warrants to Agent and Lenders that such Borrower is currently informed of the financial condition of the other US Borrowers and of all other circumstances which a diligent inquiry would reveal and which bear upon the risk of nonpayment of the Obligations. Each US Borrower further represents and warrants to Agent and Lenders that such Borrower has read and understands the terms and conditions of the Loan Documents. Each US Borrower hereby covenants that such Borrower will continue to keep informed of the other US Borrowers' financial condition and of all other circumstances which bear upon the risk of nonpayment or nonperformance of the Obligations.

(g) The provisions of this Section 2.15 are made for the benefit of Agent, each member of the Lender Group, each Bank Product Provider, and their respective successors and assigns, and may be enforced by it or them from time to time against any or all US Borrowers as often as occasion therefor may arise and without requirement on the part of Agent, any member of the Lender Group, any Bank Product Provider, or any of their successors or assigns first to marshal any of its or their claims or to exercise any of its or their rights against any US Borrower or to exhaust any remedies available to it or them against any US Borrower or to resort to any other source or means of obtaining payment of any of the US Obligations hereunder or to elect any other remedy. The provisions of this Section 2.15 shall remain in effect until all of the US Obligations shall have been paid in full or otherwise fully satisfied. If at any time, any payment, or any part thereof, made in respect of any of the Obligations, is rescinded or must otherwise be restored or returned by Agent or any Lender upon the insolvency, bankruptcy or reorganization of any US Borrower, or otherwise, the provisions of this Section 2.15 will forthwith be reinstated in effect, as though such payment had not been made.

(h) Each US Borrower hereby agrees that it will not enforce any of its rights that arise from the existence, payment, performance or enforcement of the provisions of this Section 2.15, including rights of subrogation, reimbursement, exoneration, contribution or indemnification and any right to participate in any claim or remedy of Agent, any other member of the Lender Group, or any Bank Product Provider against any other Borrower, whether or not such claim, remedy or right arises in equity or under contract, statute or common law, including the right to take or receive from any Borrower, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security solely on account of such claim, remedy or right, unless and until such time as all of the Obligations have been paid in full in cash. Any claim which any US Borrower may have against any other US Borrower with respect to any payments to any Agent or any member of the Lender Group hereunder or under any of the Bank Product Agreements are hereby expressly made subordinate and junior in right of payment, without limitation as to any increases in the Obligations arising hereunder or thereunder, to the prior payment in full in cash of the Obligations and, in the event of any insolvency, bankruptcy, receivership, liquidation, reorganization or other similar proceeding under the laws of any jurisdiction relating to any US Borrower, its debts or its assets, whether voluntary or involuntary, all such US Obligations shall be paid in full in cash before any payment or distribution of any character, whether in cash, securities or other property, shall be made to any other US Borrower therefor. If any amount shall be paid to any US Borrower in violation of the immediately preceding sentence, such amount shall be held in trust for the benefit of Agent, for the benefit of the Lender Group and the Bank Product Providers, and shall forthwith be paid to Agent to be credited and applied to the Obligations and all other amounts payable under this Agreement, whether matured or unmatured, in accordance with the terms of this Agreement, or to be held as Collateral for any US Obligations or other amounts payable under this Agreement thereafter arising. Notwithstanding anything to the contrary contained in this Agreement, no US Borrower may exercise any rights of subrogation, contribution, indemnity, reimbursement or other similar rights against, and may not proceed or seek recourse against or with respect to any property or asset of, any other Borrower (the "Foreclosed Borrower"), including after payment in full of the Obligations, if all or any portion of the Obligations have been satisfied in connection with an exercise of remedies in respect of the Equity Interests of such Foreclosed Borrower whether pursuant to this Agreement or otherwise.

(i) Each US Borrower hereby agrees that after the occurrence and during the continuance of any Default or Event of Default, such Borrower will not demand, sue for or otherwise attempt to collect any indebtedness of any other Borrower owing to such Borrower until the Obligations shall have been paid in full in cash. If, notwithstanding the foregoing sentence, such Borrower shall collect, enforce or receive any amounts in respect of such indebtedness, such amounts shall be collected, enforced and received by such Borrower as trustee for Agent, and such Borrower shall deliver any such amounts to Agent for application to the Obligations in accordance with Section 2.4(b).

2.16 **Incremental Revolving Commitments.**

(a) The US Administrative Borrower may, at any time and from time to time prior to the Maturity Date, by notice to Agent, request an increase in the Revolver Commitments of the Lenders (the "Incremental Revolving Commitments"), subject to the terms and conditions set forth herein, in an aggregate principal amount for all such Incremental Revolving Commitments of up to $30,000,000 to be effective as of a date (the "Increase Date") specified in the related notice to Agent; *provided*, *however*, that:

(i) any Incremental Revolving Commitments requested hereby shall be in an amount not less than $5,000,000;

(ii) on the date of any request by the Borrowers for Incremental Revolving Commitments and on the related Increase Date, the applicable conditions set forth in Section 3.2 (other than Section 3.2(b)) shall be satisfied;

(iii) on the date of any request by the Borrowers for any Incremental Revolving Commitments and on the related Increase Date, no Event of Default shall have occurred and be continuing and no Event of Default shall result from such Incremental Revolving Commitments;

(iv) immediately prior to the incurrence of the Incremental Revolving Commitments, and after giving effect thereto, the representations and warranties set forth in *Article IV* shall be true and correct in all material respects (without duplication of materiality qualifiers) (other than any such representations or warranties that, by their terms, refer to a specific date other than the applicable Increase Date, in which case as of such specific date;

(v) the proceeds of such Incremental Revolving Commitments shall be used for acquisitions and other investments, capital expenditures, working capital, and other general corporate purposes in accordance with, and as permitted by, the terms of the Loan Documents;

(b) In connection with any Incremental Revolving Commitments, this Agreement may be amended in a writing executed and delivered by the Administrative Borrower and Agent to reflect any technical changes necessary to give effect to such increase in accordance with its terms as set forth herein, including, without limitation, amending and restating or supplementing Schedule C-1 to reflect the new Revolver Commitments of the Lenders (including any Incremental Revolver Commitments of the Incremental Revolving Lenders). This Section 2.16(b) shall supersede any provisions in Section 13.1 to the contrary.

(c) Agent shall promptly notify the Lender Group of a request by the Administrative Borrower for Incremental Revolving Commitments, which notice shall include (i) the proposed amount, (ii) the proposed Increase Date, (iii) whether the proposed increase should be made to the UK Revolver Commitments or the US Revolver Commitments (or both), and (iii) the date by which Lender Parties wishing to participate in the Incremental Revolving Commitments must commit to an Incremental Revolving Commitment (the "Incremental Commitment Date"). Incremental Revolving Commitments may be provided, by any existing Lender (it being understood that no existing Lender will have an obligation to make any Incremental Revolving Commitment, but the Borrowers will have an obligation to approach the existing Lender Group first, prior to any Additional Lender, to provide any Incremental Revolving Commitment) or by any Additional Lender (each such existing Lender or Additional Lender providing such Incremental Revolving Commitment, an "Incremental Revolving Lender" and, collectively, the "Incremental Revolving Lenders"); provided that Agent, the Swing Lender and each Issuing Bank shall have consented (not to be unreasonably conditioned, withheld or delayed) to such Additional Lender's providing such Incremental Revolving Commitments to the extent such consent, if any, would be required under Section 13.1 for an assignment of Revolver Commitments to such Additional Lender. If any Incremental Revolving Commitments are provided in accordance with this Section 2.16, no Person who is not at the time a Lender will be selected to provide the Incremental Revolving Commitments until the then-existing Lenders have been provided with a reasonable opportunity to provide all or a portion of such Incremental Revolving Commitments; provided that none of the then-existing Lenders will be required to provide any such Incremental Revolving Commitments without their respective consent. For the avoidance of doubt, no Loan Party or Subsidiary thereof or any Affiliate of the foregoing shall be an Incremental Revolving Lender.

(d) On the applicable Increase Date, each Additional Lender shall be or become a Lender party to this Agreement as of such applicable Increase Date by delivering an Incremental Agreement as of such Increase Date;

(e) The Incremental Revolving Commitments shall be subject to the prior satisfaction of conditions precedent to be agreed between the Administrative Borrower and the Incremental Revolving Lenders providing such Incremental Revolving Commitments, including, without limitation, that Agent shall have received on or before the Increase Date the following, each dated such date:

(i) (A) a certificate of an Authorized Person certifying to resolutions of such Loan Party's Board of Directors or sole member, as applicable, approving the Incremental Revolving Commitments, the borrowing of Revolving Loans thereunder and the corresponding modifications to this Agreement and such other matters as requested by Agent and (B) if requested by Agent, an opinion of counsel for the Borrowers, in form and substance reasonably satisfactory to Agent;

(ii) an Incremental Agreement from each Additional Lender in form and substance reasonably satisfactory to Agent (each, an "Incremental Agreement"), duly executed by such Additional Lender, Agent (at the direction of the Required Lenders) and the Administrative Borrower; and

(iii) such other documents, certificates, opinions, or other items (that are substantially consistent with the items delivered on the Closing Date) as may be reasonably requested by Agent or the Incremental Revolving Lenders providing such Incremental Revolving Commitments;

(f) On the applicable Increase Date, upon fulfillment of the conditions set forth in Section 2.16(e), Agent shall notify the Lender Group (including each Additional Lender) and the Administrative Borrower of the incurrence of the Incremental Revolving Commitments to be effected on the related Increase Date and shall record in the Register the relevant information with respect to the Incremental Revolving Lenders on such date.

(g) Upon any Increase Date on which any Incremental Revolving Commitments are effected if, on such Increase Date, there are any Revolving Loans outstanding, each of the Lenders that has an existing Revolver Commitment or Revolving Loan, as applicable, shall assign to each of the Incremental Revolving Lenders, and each of the Incremental Revolving Lenders shall purchase from each such Lender, at par, such interests in the Revolving Loans outstanding on such Increase Date as shall be necessary in order that, after giving effect to all such assignments and purchases, such Revolving Loans will be held by the Lenders with existing Revolver Commitments or Revolving Loans, as applicable, and Incremental Revolving Lenders ratably in accordance with their Revolver Commitments after giving effect to the addition of such Incremental Revolving Commitments.

2.17 **Currencies**. The US Revolving Loans and other US Obligations (unless such other US Obligations expressly provide otherwise) shall be made and repaid in Dollars. The UK Revolving Loans and other UK Obligations (unless such other UK Obligations expressly provide otherwise) shall be made in Dollars or GBP, as selected by UK Administrative Borrower as provided herein. All such UK Obligations denominated in GBP shall be repaid in GBP and all such UK Obligations denominated in Dollars shall be repaid in Dollars. Payment made in a currency other than the currency in which the applicable Obligations are denominated may be accepted by Agent in its discretion and if so accepted, the parties agree that Agent may convert the payment made to the currency of the applicable Obligations at the applicable Spot Rate in accordance with its normal banking practices.

3. CONDITIONS; TERM OF AGREEMENT.

3.1 **Conditions Precedent to the Initial Extension of Credit.** The obligation of each Lender to make the initial extensions of credit provided for hereunder is subject to the fulfillment, to the satisfaction of Agent and each Lender, of each of the conditions precedent set forth on Schedule 3.1 to this Agreement (the making of such initial extensions of credit by a Lender being conclusively deemed to be its satisfaction or waiver of the conditions precedent).

3.2 **Conditions Precedent to all Extensions of Credit.** Subject to Section 1.8 in the case of Limited Condition Transactions consummated after the Closing Date, the obligation of the Lender Group (or any member thereof) to make any Revolving Loans hereunder (or to extend any other credit hereunder) at any time shall be subject to the following conditions precedent:

(a) at and as of each extension of credit made after the Closing Date, each of the representations and warranties of each Loan Party or its Subsidiaries contained in this Agreement or in the other Loan Documents shall be true and correct in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) on and as of the date of such extension of credit, as though made on and as of such date (except to the extent that such representations and warranties relate solely to an earlier date);

(b) at and as of the date of each extension of credit made after the Closing Date, no Default or Event of Default shall have occurred and be continuing on the date of such extension of credit, nor shall either result from the making thereof.

(c) Agent shall have received written notice of the request for such Revolving Loan in accordance with the terms of Section 2.3(a), and

(d) After giving effect the borrowing of such Revolving Loans, the Revolver Usage shall not exceed the Maximum Revolver Amount.

3.3 **Maturity.** The Commitments shall continue in full force and effect for a term ending on the Maturity Date (unless terminated earlier in accordance with the terms hereof).

3.4 **Effect of Maturity.** On the Maturity Date, all commitments of the Lender Group to provide additional credit hereunder shall automatically be terminated and all of the Obligations (other than Hedge Obligations) immediately shall become due and payable without notice or demand and Borrowers shall be required to repay all of the Obligations (other than Hedge Obligations) in full. No termination of the obligations of the Lender Group (other than payment in full of the Obligations and termination of the Commitments) shall relieve or discharge any Loan Party of its duties, obligations, or covenants hereunder or under any other Loan Document and Agent's Liens in the Collateral shall continue to secure the Obligations and shall remain in effect until all Obligations have been paid in full. When all of the Obligations have been paid in full, Agent will, at Borrowers' sole expense, execute and deliver any termination statements, lien releases, discharges of security interests, and other similar discharge or release documents (and, if applicable, in recordable form) as are reasonably necessary to release, as of record, Agent's Liens and all notices of security interests and liens previously filed by Agent.

3.5 **Early Termination by Borrowers.** Borrowers have the option, at any time upon 5 Business Days prior written notice to Agent, to repay all of the Obligations in full and terminate the Commitments. The foregoing notwithstanding, (a) Borrowers may rescind termination notices relative to proposed payments in full of the Obligations with the proceeds of third party Indebtedness if the closing for such issuance or incurrence does not happen on or before the date of the proposed termination (in which case, a new notice shall be required to be sent in connection with any subsequent termination), and (b) Borrowers may extend the date of termination at any time with the consent of Agent (which consent shall not be unreasonably withheld or delayed).

3.6 **Conditions Subsequent.** The obligation of the Lender Group (or any member thereof) to continue to make Revolving Loans (or otherwise extend credit hereunder) is subject to the fulfillment, on or before the date applicable thereto, of the conditions subsequent set forth on Schedule 3.6 to this Agreement, unless such date is extended, in writing, by Agent, which Agent may do without obtaining the consent of the other members of the Lender Group (the failure by Borrowers to so perform or cause to be performed such conditions subsequent as and when required by the terms thereof, shall constitute an Event of Default).

4. **REPRESENTATIONS AND WARRANTIES.**

On the Closing Date and on the other dates required pursuant to Article 3, Holdings, Intermediate Holdings, CP Holdings LLC (in each case solely with respect to Sections 4.1, 4.2, 4.3, 4.7, 4.8, 4.9, 4.13, 4.14, 4.15, 4.16 and 4.17), and the Borrowers, represent and warrant to the Lenders that:

4.1 **Organization; Powers**. Holdings, Intermediate Holdings, CP Holdings LLC, the Borrowers and each of their Restricted Subsidiaries (a) is (i) duly organized and validly existing and (ii) in good standing (to the extent such concept exists in the relevant jurisdiction) under the Requirements of Law of its jurisdiction of organization, (b) has all requisite organizational power and authority to own its assets and to carry on its business as now conducted and (c) is qualified to do business in, and is in good standing (to the extent such concept exists in the relevant jurisdiction) in, every jurisdiction where the ownership, lease or operation of its properties or conduct of its business requires such qualification, except, in each case referred to in this Section 4.1 (other than clause (a)(i) with respect to the Borrowers) where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

4.2 **Authorization; Enforceability**. The execution, delivery and performance by each Loan Party of each Loan Document to which such Loan Party is a party are within such Loan Party's corporate or other organizational power and have been duly authorized by all necessary corporate or other organizational action of such Loan Party. Each Loan Document to which any Loan Party is a party has been duly executed and delivered by such Loan Party and is a legal, valid and binding obligation of such Loan Party, enforceable against such Loan Party in accordance with its terms, subject to the Legal Reservations.

4.3 **Governmental Approvals; No Conflicts**. The execution and delivery of each Loan Document by each Loan Party party thereto and the performance by such Loan Party thereof (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except (i) such as have been obtained or made and are in full force and effect, (ii) in connection with the Perfection Requirements and (iii) such consents, approvals, registrations, filings, or other actions the failure to obtain or make which would not be reasonably expected to have a Material Adverse Effect, (b) will not violate any (i) of such Loan Party's Governing Documents or (ii) Requirement of Law applicable to such Loan Party which violation, in the case of this clause (b)(ii), would reasonably be expected to have a Material Adverse Effect and (c) will not violate or result in a default under any Contractual Obligation to which such Loan Party is a party which violation, in the case of this clause (c), would reasonably be expected to result in a Material Adverse Effect.

4.4 **Financial Condition; No Material Adverse Effect**.

(a) The financial statements of Holdings provided pursuant to Item #10 of Schedule 3.1 present fairly, in all material respects, the financial position and results of operations and cash flows of Holdings and its Subsidiaries on a consolidated basis as of such dates and for such periods in accordance with GAAP, subject, in the case of any such unaudited financial statements, to the absence of footnotes and normal year-end adjustments.

(b) Since the Closing Date, there have been no events, developments or circumstances that have had, or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

4.5 **Properties**.

(a) As of the Closing Date, Schedule 4.5(a) sets forth the address of each Real Property (or each set of such assets that collectively comprise one operating property) having a fair market value in excess of $5,000,000 that is owned in fee simple by any Loan Party.

(b) The Borrowers and each of their Restricted Subsidiaries have good and valid fee simple title to or rights to purchase, or valid leasehold interests in, or easements or other limited property interests in or in the case of any UK Loan Party, legal title to and beneficial interest in all of their respective Real Property and have good title to their personal property and assets, in each case, except (i) for defects in title that do not materially interfere with their ability to conduct their business as currently conducted or to utilize such properties and assets for their intended purposes or (ii) where the failure to have such title or rights would not reasonably be expected to have a Material Adverse Effect.

(c) The Borrowers and their Restricted Subsidiaries solely and exclusively own or otherwise have a valid license or right to use all rights in any and all intellectual property or other similar proprietary rights throughout the world, including any and all Patents, Trademarks, Copyrights, domain names, design rights, proprietary rights, technology, software, trade secrets, know-how, database rights and all related documentation, registrations, additions, improvements or accessions, and all goodwill and rights to sue for past, present and future infringement associated with any of the foregoing (collectively, "IP Rights") that are used in, held for use in or otherwise necessary for their respective businesses as presently conducted without any infringement, dilution, misappropriation or other violation of the IP Rights of third parties, except to the extent the failure to own or have a license or have rights to use would not, or where such infringement, dilution, misappropriation or other violation would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. To the knowledge of the Borrowers, neither the Borrowers nor any of their Restricted Subsidiaries infringes upon, misuses, dilutes, misappropriates or otherwise violates any IP Rights held by any Person, except any such infringement, misuse, dilution, misappropriation or other violation would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. No claim or litigation regarding any IP Rights is pending or, to the knowledge of the Borrowers, threatened in writing against Borrower or any Restricted Subsidiary, that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

4.6 **Litigation and Environmental Matters**.

(a) There are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of the Borrowers, threatened in writing against or affecting the Borrowers or any of their Restricted Subsidiaries which would reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

(b) Except for any matters that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect, (i) neither the Borrowers nor any of their Restricted Subsidiaries are subject to or have received written notice of any Environmental Claim or knows of any basis for any Environmental Claim against the Borrowers or their Restricted Subsidiaries and (ii) neither the Borrowers nor any of their Restricted Subsidiaries (A) have failed to comply with any Environmental Law or to obtain, maintain or comply with any Governmental Authorization required under any Environmental Law or (B) is subject to, or knows of any basis for, any Environmental Liability.

(c) Neither the Borrowers nor any of their Restricted Subsidiaries have conducted any Hazardous Materials Activities in a manner that would reasonably be expected to have a Material Adverse Effect.

4.7 **Compliance with Laws**. Each of Holdings, Intermediate Holdings, CP Holdings LLC, the Borrowers and each of their Restricted Subsidiaries is in compliance with all Requirements of Law applicable to it or its property, except, in each case, where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect; it being understood and agreed that this Section 4.7 shall not apply to the Requirements of Law covered by Section 4.15.

4.8 **Investment Company Status**. None of the Loan Parties is an "investment company" as defined in, or is required to be registered under, the Investment Company Act of 1940.

4.9 **Taxes**. Each of Holdings, Intermediate Holdings, CP Holdings LLC, the Borrowers and each of their Restricted Subsidiaries has timely filed or caused to be filed all Tax returns and reports required to have been filed and has paid or caused to be paid all Taxes required to have been paid by it that are due and payable (including in its capacity as a withholding agent), except (a) Taxes (or any requirement to file Tax returns with respect thereto) that are being contested in good faith by appropriate proceedings and for which Holdings, Intermediate Holdings, CP Holdings LLC, the Borrowers or such Restricted Subsidiary, as applicable, has set aside on its books adequate reserves in accordance with GAAP or (b) to the extent that the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

4.10 **ERISA**.

(a) Each Plan is in compliance in form and operation with its terms and with ERISA and the IRC and all other applicable Requirements of Law, except where any failure to comply would not reasonably be expected to result in a Material Adverse Effect. There are no pending, or to the knowledge of the Borrowers or any of their Restricted Subsidiaries, threatened material claims (other than claims for benefits in the ordinary course), sanctions, actions, suits, or proceedings asserted or instituted by any Person against any Plan or any Person as fiduciary or sponsor of any Plan, except as would not result in a Material Adverse Effect.

(b) No ERISA Event has occurred and is continuing or is reasonably expected to occur that, when taken together with all other such ERISA Events, would reasonably be expected to result in a Material Adverse Effect.

4.11 **Disclosure**.

(a) As of the Closing Date, all written information (other than the Projections, other forward-looking and/or projected information and information of a general economic or industry-specific nature) concerning Holdings, Intermediate Holdings, CP Holdings LLC, the Borrowers and their subsidiaries that was included in the Information Memorandum or otherwise prepared by or on behalf of Holdings, Intermediate Holdings, CP Holdings LLC, the Borrowers and their subsidiaries or their respective representatives and made available to Lender or Agent in connection with the Transactions on or before the Closing Date (the "Information"), when taken as a whole, did not, when furnished, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein not materially misleading in light of the circumstances under which such statements are made (after giving effect to all supplements and updates thereto from time to time).

(b) The Projections have been prepared in good faith based upon assumptions believed by the Borrowers to be reasonable at the time furnished (it being recognized that such Projections are not to be viewed as facts and are subject to significant uncertainties and contingencies, many of which are beyond the Borrowers' control, that no assurance can be given that any particular financial projections will be realized, that actual results may differ from projected results and that such differences may be material).

(c) As of the Closing Date, the information included in the Beneficial Ownership Certification is true and correct in all material respects.

4.12 **Security Interest in Collateral**. Subject to the terms of the last paragraph of Schedule 3.1, the Legal Reservations, the Perfection Requirements, the Intercreditor Agreement and the provisions of this Agreement and the other relevant Loan Documents, the Security Documents create legal, valid and enforceable Liens on all of the Collateral in favor of Agent and/or UK Security Agent for the benefit of itself and the other Secured Parties, and upon the satisfaction of the applicable Perfection Requirements, such Liens constitute perfected Liens (with the priority that such Liens are expressed to have under the relevant Security Documents) on the Collateral (to the extent such Liens are required to be perfected under the terms of the Loan Documents) securing the Obligations, in each case as and to the extent set forth therein.

4.13 **Labor Disputes**. As of the Closing Date, except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, (a) there are no strikes, lockouts or slowdowns against the Borrowers or any of their Restricted Subsidiaries pending or, to the knowledge of the Borrowers, threatened and (b) the hours worked by and payments made to employees of the Borrowers and their Restricted Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable Requirements of Law dealing with such matters.

4.14 **Federal Reserve Regulations**.

(a) None of Holdings, Intermediate Holdings, CP Holdings LLC, the Borrowers nor any of their respective Restricted Subsidiaries is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of buying or carrying Margin Stock.

(b) No part of the proceeds of any Loan has been or will be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, for any purpose that results in a violation of the provisions of Regulation U or Regulation X.

4.15 **OFAC; Sanctions; Anti-Corruption Laws; Anti-Money Laundering Laws**. No Loan Party or any of its Subsidiaries is in violation of any Sanctions. No Loan Party nor any of its Subsidiaries nor, to the knowledge of such Loan Party, any director, officer, employee, agent or Affiliate of such Loan Party or such Subsidiary (a) is a Sanctioned Person or a Sanctioned Entity, (b) has any assets located in Sanctioned Entities, or (c) derives revenues from investments in, or transactions with Sanctioned Persons or Sanctioned Entities. Each of the Loan Parties and its Subsidiaries has implemented and maintains in effect policies and procedures designed to ensure compliance with all Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws. Each of the Loan Parties and its Subsidiaries, and to the knowledge of each such Loan Party, each director, officer, employee, agent and Affiliate of each such Loan Party and each such Subsidiary, is in compliance with all Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws. No proceeds of any Loan made or Letter of Credit issued hereunder will be used to fund any operations in, finance any investments or activities in, or make any payments to, a Sanctioned Person or a Sanctioned Entity, or otherwise used in any manner that would result in a violation of any Sanction, Anti-Corruption Law or Anti-Money Laundering Law by any Person (including any Lender, Bank Product Provider, or other individual or entity participating in any transaction).

4.16 **Solvency**.

(a) The sum of the debt (including contingent liabilities) of Holdings and its Subsidiaries, taken as a whole, does not exceed the fair value of the assets (on an ongoing basis) of Holdings and its Subsidiaries, taken as a whole; (b) the present fair saleable value of the assets of Holdings and its Subsidiaries, taken as a whole, is not less than the amount that will be required to pay the probable liabilities (including contingent liabilities) of Holdings and its Subsidiaries, taken as a whole, on their debts as they become absolute and matured; (c) the capital of Holdings and its Subsidiaries, taken as a whole, is not unreasonably small in relation to the business of Holdings and its Subsidiaries, taken as a whole, contemplated as of the Closing Date; and (d) Holdings and its Subsidiaries, taken as a whole, do not intend to incur, or believe that they will incur, debts (including current obligations and contingent liabilities) beyond their ability to pay such debt as they mature in the ordinary course of business. For the purposes hereof, 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.

4.17 **Capitalization and Subsidiaries**. Schedule 4.17 sets forth as of the Closing Date (immediately after giving to the Transactions) a correct and complete list containing (a) the name of each subsidiary of Holdings and the ownership interest therein held by Holdings or its applicable subsidiary, and (b) the type of entity of Holdings and each of its subsidiaries.

4.18 **[Reserved].**

4.19 **Patriot Act.** To the extent applicable, each Loan Party is in compliance, in all material respects, with the (a) Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto, and (b) Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act of 2001, as amended) (the "Patriot Act"). No part of the proceeds of the loans made hereunder will be used by any Loan Party or any of their Affiliates, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of (x) the United States Foreign Corrupt Practices Act of 1977, as amended, (y) the UK Bribery Act 2010, or (z) other similar legislation in other relevant jurisdictions.

4.20 **Centre of Main Interests and Establishments**. For the purposes of Regulation (EU) 2015/848 of 20 May 2015 on insolvency proceedings (recast) (the "Regulation"), (i) the centre of main interest (as that term is used in Article 3(1) of the Regulation) of each UK Loan Party is situated in England and Wales and it has no "establishment" (as that term is used in Article 2(10) of the Regulation) in any other jurisdiction, and (ii) no Loan Party (to the extent such Loan Party is subject to the Regulation) shall have a centre of main interest other than as situated in its jurisdiction of incorporation or organization.

4.21 **[Reserved].**

4 . 2 2 **Eligible Accounts.** As to each Account that is identified by Borrowers as an Eligible Account in a Borrowing Base Certificate submitted to Agent, as of the date of such Borrowing Base Certificate, such Account is (a) a bona fide existing payment obligation of the applicable Account Debtor created by the sale and delivery of Inventory or the rendition of services to such Account Debtor in the ordinary course of the Borrowers' business, (b) owed to a Borrower without any known defenses, disputes, offsets, counterclaims, or rights of return or cancellation, and (c) not excluded as ineligible by virtue of one or more of the excluding criteria (other than any Agent-discretionary criteria) set forth in the definition of Eligible Accounts.

4.23 **UK Pension Plans**. No UK Borrower has:

(a) at any time been an employer (for the purposes of sections 38 to 51 of the Pensions Act 2004 (UK) or its equivalent in any jurisdiction) of an occupational pension scheme which is not a money purchase scheme (both terms as defined in the Pensions Schemes Act 1993 (UK));

(b) at any time been "connected" with or an "associate" of (as those terms are used in sections 38 and 43 of the Pensions Act 2004 (UK)) such an employer;

(c) been issued with a Financial Support Direction or Contribution Notice in respect of any pension scheme; or

(d) requested or been granted contribution holiday in respect of any occupational pension scheme.

4.24 **Eligible Rolling Stock Collateral.**

(a) As to each item of Rolling Stock or UK Equipment that is identified by UK Borrowers to Agent as Eligible Rolling Stock Collateral and in each case as of the date of the relevant Borrowing Base Certificate, such Rolling Stock and UK Equipment is (a) in good working order and condition, ordinary wear, tear, casualty, and condemnation and permitted Dispositions excepted, and (b) not excluded as ineligible by virtue of one or more of the excluding criteria (other than any Agent-discretionary criteria) set forth in the definition of Eligible Rolling Stock Collateral.

(b) All of the Rolling Stock which constitutes Eligible Rolling Stock Collateral: (i) is owned by a UK Borrower, (ii) was included in the appraisal thereof delivered to Agent prior to the Closing Date, (iii) is subject to the valid and perfected first priority security interest of UK Security Agent, (iv) is not subject to a Lien in favor of any person other than UK Security Agent, (v) is not subject to any lease, other than leases between or among the Loan Parties, (vi) is used by a UK Borrower in the ordinary course of such UK Borrower's business, (vii) meets, in all material respects, all applicable safety or regulatory standards applicable to it for the use for which it is intended or for which it is being used, (viii) meets, in all material respects, all applicable standards of all motor vehicle laws or other statutes and regulations established by any Governmental Authority and is not subject to any licensing or similar requirement that would limit the right of Agent and/or UK Security Agent to sell or otherwise Dispose of such Rolling Stock, and (ix) is covered by an insurance policy of the applicable UK Borrower in such amounts as are acceptable to Agent, which insurance policy provides that Agent is a loss payee, in the case of a casualty or other loss thereto, or in the case of liabilities, losses or damages incurred "over the road", is self-insured in accordance with the applicable UK Borrower's customary practices.

4.25 **Location of Inventory, Equipment and Rolling Stock.** The Inventory, Equipment and Rolling Stock of Holdings and its Subsidiaries is not stored with a bailee, warehouseman, or similar party and is located only at, or in-transit between, the locations identified on Schedule 4.25 (as such Schedule may be updated pursuant to Section 5.17) other than (i) with respect to Rolling Stock (and UK Equipment related thereto) in "over the road use", out for repair or out on assignment, in each case, in the ordinary course of business and (ii) leased locations at which the value of the Inventory, Equipment and Rolling Stock of Holdings and its Subsidiaries located thereon is less than $500,000 in the aggregate.

4.26 **Inventory, Equipment and Rolling Stock Records.** Each Loan Party keeps, in all material respects, correct and accurate records itemizing and describing the type, quality, and quantity of its and its Subsidiaries' Inventory, Equipment and Rolling Stock and, in each case, the book value thereof.

5. AFFIRMATIVE COVENANTS.

From the Closing Date until the date that all Commitments have expired or terminated and the principal of and interest on each Loan and all fees, expenses and other amounts payable under any Loan Document (other than contingent indemnification obligations for which no claim or demand has been made) have been paid in full in cash (such date, the "Termination Date"), Holdings (solely with respect to Section 5.1(a), 5.1(b), 5.3, 5.4, 5.12 and 5.14), Intermediate Holdings (solely with respect to Section 5.3, 5.4, 5.12 and 5.14), CP Holdings LLC (solely with respect to Section 5.3, 5.4, 5.12 and 5.14), and the Borrowers hereby covenant and agree with the Lenders that:

5.1 **Financial Statements and Other Reports**. Holdings will deliver to Agent for delivery to each Lender:

(a) Quarterly Financial Statements. As soon as available, and in any event within 45 days after the end of each of the first three Fiscal Quarters of each Fiscal Year, the consolidated balance sheet of Holdings as at the end of such Fiscal Quarter and the related consolidated statements of operations and cash flows of Holdings for such Fiscal Quarter and for the period from the beginning of the then current Fiscal Year to the end of such Fiscal Quarter, and setting forth, in reasonable detail, in comparative form the corresponding figures for the corresponding periods of the previous Fiscal Year, all in reasonable detail, together with a Responsible Officer Certification (which may be included in the applicable Compliance Certificate) with respect thereto; provided, that any comparison to a prior period will be a comparison between the entity or entities, as applicable, that issued the financial statements at the applicable time;

(b) Annual Financial Statements. As soon as available, and in any event within 90 days after the end of each Fiscal Year, (i) the consolidated balance sheet of Holdings as at the end of such Fiscal Year and the related consolidated statements of operations, stockholders' equity and cash flows of Holdings for such Fiscal Year and, commencing after the completion of the second full Fiscal Year ended after the Closing Date, setting forth, in reasonable detail, in comparative form the corresponding figures for the previous Fiscal Year and (ii) with respect to such consolidated financial statements, a report thereon of BDO USA, LLP or another independent certified public accountant of recognized national standing (which report shall be unqualified as to "going concern" and scope of audit (except for any such qualification pertaining to the impending maturity of any Indebtedness (including Indebtedness hereunder and/or the Term Loan Facility) occurring within 12 months of the date of the relevant audit opinion or the actual or prospective breach of any financial covenant), and shall state that such consolidated financial statements fairly present, in all material respects, the consolidated financial position of Holdings as at the dates indicated and the results of its operations and cash flows for the periods indicated in conformity with GAAP);

(c) Compliance Certificate. Together with each delivery of financial statements of Holdings pursuant to Sections 5.1(a) and (b), (i) a duly executed and completed Compliance Certificate and (ii) (A) a summary of the pro forma adjustments necessary to eliminate the accounts of Unrestricted Subsidiaries (if any) from such financial statements and (B) a list identifying each subsidiary of the Borrowers as a Restricted Subsidiary or an Unrestricted Subsidiary as of the date of delivery of such Compliance Certificate or confirming that there is no change in such information since the later of the Closing Date and the date of the last such list;

(d) Narrative Report. Simultaneously with the delivery of each set of consolidated financial statements referred to in Sections 5.1(a) and (b) above, a Narrative Report;

(e) Notice of Default. Promptly upon any Responsible Officer of a Borrower obtaining knowledge of (i) any Default or Event of Default or (ii) the occurrence of any event or change that has caused or evidences, either individually or in the aggregate, a Material Adverse Effect, a reasonably-detailed notice specifying the nature and period of existence of such condition, event or change and what action such Borrower has taken, is taking and proposes to take with respect thereto;

(f) Notice of Litigation. Promptly upon any Responsible Officer of a Borrower obtaining knowledge of (i) the institution of, or threat of, any Adverse Proceeding not previously disclosed in writing by a Borrower to the Lenders, or (ii) any material development in any Adverse Proceeding that, in the case of either clause (i) or (ii), could reasonably be expected to have a Material Adverse Effect, written notice thereof from the Borrowers together with such other non-privileged information as may be reasonably available to the Loan Parties to enable the Lenders to evaluate such matters;

(g) ERISA. Promptly upon any Responsible Officer of a Borrower becoming aware that any ERISA Event has occurred or is reasonably expected to occur that, alone or together with any other ERISA Event that has occurred or is reasonably expected to occur, could reasonably be expected to have a Material Adverse Effect, a written notice specifying the nature thereof;

(h) Financial Plan. As soon as available and in any event no later than 60 days after the beginning of each Fiscal Year, an annual budget prepared by management of Holdings, consisting of condensed income statements on an annual basis for such Fiscal Year (such budget, the "Financial Plan");

(i) Information Regarding Collateral. Promptly (and, in any event, within 60 days of the relevant change (or such later date as Agent may reasonably agree)) written notice of any change (i) in any Loan Party's legal name, (ii) in any Loan Party's type of organization or (iii) in any Loan Party's jurisdiction of organization, in each case to the extent such information is necessary to enable Agent to perfect or maintain the perfection and priority of its or UK Security Agent's security interest in the Collateral of the relevant Loan Party;

(j) Collateral Verification. Together with the delivery of each Compliance Certificate provided with the financial statements required to be delivered pursuant to Section 5.1(b), a supplement to the Perfection Certificate;

(k) Beneficial Ownership Updates. Written notification of any change in the information provided in the Beneficial Ownership Certification that would result in a change to the list of beneficial owners identified in parts (c) or (d) of such certification.

(l) Certain Reports. Promptly upon their becoming available and without duplication of any obligations with respect to any such information that is otherwise required to be delivered under the provisions of any Loan Document, copies of all regular and periodic reports and all registration statements (other than on Form S-8 or a similar form) and prospectuses, if any, filed by Holdings, Intermediate Holdings, CP Holdings LLC, or any Borrower or its applicable Parent Company with any securities exchange or with the SEC or any analogous governmental or private regulatory authority with jurisdiction over matters relating to securities;

(m) Other Information. Such other certificates, reports and information (financial or otherwise) as Agent may reasonably request from time to time in connection with the financial condition or business of Holdings, Intermediate Holdings, CP Holdings LLC, the Borrowers and their Restricted Subsidiaries, including information and documentation reasonably requested by Agent or any Lender for purposes of compliance with applicable "know your customer" requirements under the USA PATRIOT Act or other applicable anti-money laundering laws; provided, however, that none of Holdings, Intermediate Holdings, CP Holdings LLC, the Borrowers nor any Restricted Subsidiary shall be required to disclose or provide any information (i) that constitutes non-financial trade secrets or non-financial proprietary information of Holdings, Intermediate Holdings, CP Holdings LLC, the Borrowers or any of their subsidiaries or any of their respective customers and/or suppliers, (ii) in respect of which disclosure to Agent or any Lender (or any of their respective representatives) is prohibited by applicable Requirements of Law, (iii) that is subject to attorney-client or similar privilege or constitutes attorney work product or (iv) in respect of which Holdings, Intermediate Holdings, CP Holdings LLC, the Borrowers or any Restricted Subsidiary owes confidentiality obligations to any third party (provided such confidentiality obligations were not entered into in contemplation of the requirements of this Section 5.1(m)); provided, further to the extent any certificates, reports or other information are withheld or otherwise not provided in reliance on any of the foregoing clauses (i) through (iv), Holdings will provide notice to Agent that such information is being withheld and Holdings shall use commercially reasonable efforts to obtain the relevant consents under such obligations of confidentiality to permit the provision of such information; and

Holdings hereby acknowledges that (a) Agent and/or Lead Arranger will make available to the Lenders materials and/or information provided by or on behalf of Holdings hereunder (collectively, "Holdings Materials") by posting the Holdings Materials on IntraLinks or another similar electronic system (the "Platform") and (b) Public Lenders may have personnel who do not wish to receive MNPI with respect to the Holdings and its Restricted Subsidiaries, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to any such Persons' securities. Holdings hereby agrees that it will use commercially reasonable efforts to identify that portion of the Holdings Materials that may be distributed to the Public Lenders and that (w) all such Holdings Materials 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 Holdings Materials "PUBLIC," Holdings shall be deemed to have authorized Agent, Lead Arranger, the Issuing Banks and the Lenders to treat such Holdings Materials as not containing any MNPI (although it may be sensitive and proprietary) (provided, however, that to the extent such Holdings Materials constitute Information, they shall be treated as set forth in Section 17.9); (y) all Holdings Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information;" and (z) Agent and Lead Arranger shall treat any Holdings Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Side Information." Notwithstanding the foregoing, Holdings shall not be under any obligation to mark any Holdings Materials "PUBLIC." Holdings agrees that (i) any Loan Documents, (ii) any financial statements delivered pursuant to Section 5.1 and (iii) any Compliance Certificates (excluding any annual budget required to be delivered pursuant to Section 5.1(h) to the extent attached to any Compliance Certificate) delivered pursuant to Section 5.1(c) will, in each case, be deemed to be "public-side" Holdings Materials and may be made available to Lenders; provided, however, that to the extent Holdings believes in good faith that any Compliance Certificate (excluding any annual budget) contains MNPI, and Holdings so advises Agent in writing at the time of delivery of such Compliance Certificate, such Compliance Certificate shall not be deemed to be "public-side" Holdings Materials, but Holdings shall promptly provide Agent with a version of such Compliance Certificate that redacts any portions thereof that contain MNPI so that such redacted version may be "public-side" Holdings Materials.

5.2 **Reporting.** Borrowers (a) will deliver to Agent (and if so requested by Agent, with copies for each Lender) each of the documents and other reports set forth on Schedule 5.2 at the times specified therein, and (b) agree to use commercially reasonable efforts in cooperation with Agent to facilitate and implement a system of electronic collateral reporting in order to provide electronic reporting of each of the items set forth on such Schedule.

5.3 **Existence**. Except as otherwise permitted under Section 6.7 or Section 6.11, Holdings, Intermediate Holdings, CP Holdings LLC, and the Borrowers will, and the Borrowers will cause each of their Restricted Subsidiaries to, at all times preserve and keep in full force and effect its existence and all rights and franchises, licenses and permits material to its business except, other than with respect to the preservation of the existence of the Borrowers, to the extent that the failure to do so would not reasonably be expected to result in a Material Adverse Effect; provided that, neither Holdings, Intermediate Holdings, CP Holdings LLC, nor the Borrowers nor any of their Restricted Subsidiaries shall be required to preserve any such existence (other than with respect to the preservation of existence of the Borrowers), right, franchise, license or permit if a Responsible Officer of such Person or such Person's Board of Directors (or similar governing body) determines that the preservation thereof is no longer desirable in the conduct of the business of such Person, and that the loss thereof is not disadvantageous in any material respect to such Person or to the Lenders.

5.4 **Payment of Taxes**. Each of Holdings, Intermediate Holdings, CP Holdings LLC, and the Borrowers will, and the Borrowers will cause each of their Restricted Subsidiaries to, pay all Taxes imposed upon it or any of its properties or assets or in respect of any of its income or businesses or franchises as the same become due and payable; provided, however, that no such Tax need be paid if (a) it is being contested in good faith by appropriate proceedings, so long as (i) adequate reserves or other appropriate provisions, as are required in conformity with GAAP, have been made therefor and (ii) in the case of a Tax which has resulted or may result in the creation of a Lien on any of the Collateral, such contest proceedings conclusively operate to stay the sale of any portion of the Collateral to satisfy such Tax or (b) failure to pay or discharge the same would not reasonably be expected to result in a Material Adverse Effect.

5.5 **Maintenance of Properties**. The Borrowers will, and the Borrowers will cause each of their Restricted Subsidiaries to, maintain or cause to be maintained in good repair, working order and condition, ordinary wear and tear excepted, all property (including all IP Rights) reasonably necessary to the normal conduct of business of the Borrowers and their Restricted Subsidiaries and from time to time will make or cause to be made all needed and appropriate repairs, renewals and replacements thereof except as expressly permitted by this Agreement or where the failure to maintain such properties or make such repairs, renewals or replacements would not reasonably be expected to have a Material Adverse Effect. In addition, the Borrowers will, and will cause each of their Restricted Subsidiaries to take all reasonable actions to preserve, protect, enforce, renew and keep in full force and effect all IP Rights used in their respective businesses except where the failure to so preserve, protect, enforce, renew or keep in full force would not reasonably be expected to have a Material Adverse Effect.

5.6 **Insurance**. Holdings, Intermediate Holdings, CP Holdings LLC, and each Borrower will, and will cause each of its Subsidiaries to, at Borrowers' expense, maintain insurance respecting each of Holdings' and its Subsidiaries' assets wherever located, covering liabilities, losses or damages as are customarily are insured against by other Persons engaged in same or similar businesses and similarly situated and located All such policies of insurance shall be with financially sound and reputable insurance companies acceptable to Agent and in such amounts as is carried generally in accordance with sound business practice by companies in similar businesses similarly situated and located and, in any event, in amount, adequacy, and scope reasonably satisfactory to Agent (it being agreed that the amount, adequacy, and scope of the policies of insurance of Borrowers in effect as of the Closing Date are acceptable to Agent). All property insurance policies are to be made payable to Agent for the benefit of Agent and the Lenders, as their interests may appear, in case of loss, pursuant to a standard lender's loss payable endorsement with a standard non-contributory "lender" or "secured party" clause and are to contain such other provisions as Agent may reasonably require to fully protect the Lenders' interest in the Collateral and to any payments to be made under such policies. All certificates of property and general liability insurance are to be delivered to Agent, with the lender's loss payable and additional insured endorsements in favor of Agent and shall provide for not less than 30 days (10 days in the case of non-payment) prior written notice to Agent of the exercise of any right of cancellation. If Holdings or its Subsidiaries fails to maintain such insurance, Agent may arrange for such insurance, but at the Loan Parties' expense and without any responsibility on Agent's part for obtaining the insurance, the solvency of the insurance companies, the adequacy of the coverage, or the collection of claims. Borrowers shall give Agent prompt notice of any loss exceeding $1,000,000 covered by Holdings' or its Subsidiaries' casualty or business interruption insurance. Upon the occurrence and during the continuance of an Event of Default, Agent shall have the sole right to file claims under any property and general liability insurance policies in respect of the Collateral, to receive, receipt and give acquittance for any payments that may be payable thereunder, and to execute any and all endorsements, receipts, releases, assignments, reassignments or other documents that may be necessary to effect the collection, compromise or settlement of any claims under any such insurance policies.

5.7 **Inspections**. Holdings will, and Holdings will cause each of its Restricted Subsidiaries to, permit any authorized representative designated by Agent to visit and inspect any of the properties of Holdings or any of its Restricted Subsidiaries at which the principal financial records and executive officers of the applicable Person are located, to inspect, copy and take extracts from its and their respective financial and accounting records, and to discuss its and their respective affairs, finances and accounts with its and their Responsible Officers (provided that Holdings(or any of its Subsidiaries) may, if it so chooses, be present at or participate in any such discussion), all upon reasonable notice and at reasonable times during normal business hours; provided that, (a) only Agent on behalf of the Lenders may exercise the rights of Agent and the Lenders under this Section 5.7 and (b) except as expressly set forth in the proviso below during the continuance of an Event of Default, (i) Agent shall not exercise such rights more often than one time during any calendar year and (ii) only one such time per calendar year shall be at the expense of Holdings; provided, further, that when an Event of Default exists, Agent (or any of its representatives or independent contractors) may do any of the foregoing at the expense of Holdings at any time during normal business hours and upon reasonable advance notice; provided, further, that notwithstanding anything to the contrary herein, neither Holdings nor any Restricted Subsidiary shall be required to disclose, permit the inspection, examination or making of copies of or taking abstracts from, or discuss any document, information, or other matter (A) that constitutes non-financial trade secrets or non-financial proprietary information of Holdings and its subsidiaries and/or any of its customers and/or suppliers, (B) in respect of which disclosure to Agent or any Lender (or any of their respective representatives or contractors) is prohibited by applicable Requirements of Law, (C) that is subject to attorney-client or similar privilege or constitutes attorney work product or (D) in respect of which Holdings, Intermediate Holdings, CP Holdings LLC, the Borrowers or any Restricted Subsidiary owes confidentiality obligations to any third party (provided such confidentiality obligations were not entered into in contemplation of the requirements of this Section 5.7); provided, to the extent any documents, information or other matters are withheld or otherwise not made available for inspection in reliance on any of the foregoing clauses (A) through (D), Holdings will provide notice to Agent that such information is being withheld and Holdings shall use commercially reasonable efforts to obtain the relevant consents under such obligations of confidentiality to permit the provision or inspection of such documents, information or other matters.

5.8 **Maintenance of Book and Records**. Holdings will, and Holdings will cause each of its Restricted Subsidiaries to, maintain proper books of record and account containing entries of all material financial transactions and matters involving the assets and business of Holdings and its Restricted Subsidiaries that are full, true and correct in all material respects and permit the preparation of consolidated financial statements in accordance with GAAP (it being understood and agreed that Foreign Subsidiaries may maintain individual books and records in a manner to allow financial statements to be prepared in conformity with generally accepted accounting principles that are applicable in their respective jurisdictions of organization).

5.9 **Compliance with Laws**. Holdings will, and Holdings will cause each of its Restricted Subsidiaries to, comply with the requirements of all applicable Requirements of Law (including all applicable Environmental Laws and ERISA, but excluding Sanctions, the Patriot Act and the Anti-Corruption Laws), except to the extent the failure of Holdings or the relevant Restricted Subsidiary to comply would not reasonably be expected to have a Material Adverse Effect.

5.10 **Environmental**.

(a) Environmental Disclosure. Holdings will deliver to the Agent:

(i) as soon as practicable following receipt thereof, copies of all environmental audits, investigations, analyses and reports of any kind or character, whether prepared by personnel of Holdings or any of its Restricted Subsidiaries or by independent consultants, Governmental Authorities or any other Persons, with respect to environmental matters at Holdings' or its Restricted Subsidiaries' real property or with respect to any Environmental Claims or Environmental Liabilities that, in each case might reasonably be expected to have a Material Adverse Effect;

(ii) promptly upon the occurrence thereof, written notice describing in reasonable detail (A) any Release that would reasonably be expected to have a Material Adverse Effect, (B) any action taken by Holdings or any of its Restricted Subsidiaries or any other Persons of which Holdings has knowledge in response to (1) any Hazardous Materials Activities, (2) any Environmental Claim or (3) any Environmental Liability that in each case would reasonably be expected to have a Material Adverse Effect, or (C) discovery by Holdings or any of its Restricted Subsidiaries of any occurrence or condition on or at any Real Property or any real property adjoining or in the vicinity of Real Property would be expected, individually or in the aggregate, to have a Material Adverse Effect;

(iii) as soon as practicable following the sending or receipt thereof by the Holdings or any of its Restricted Subsidiaries, a copy of any and all written communications with respect to any of the following that would reasonably be expected to have a Material Adverse Effect: (A) any Environmental Claim, (B) any Release, (C) any Environmental Liability and (D) any request made to Holdings or any of its Restricted Subsidiaries for information from any Governmental Authority that suggests such Governmental Authority is investigating whether Holdings or any of its Restricted Subsidiaries may be potentially responsible for any Hazardous Materials Activity;

(iv) prompt written notice describing in reasonable detail (A) any proposed acquisition of stock, assets, or property by Holdings or any of its Restricted Subsidiaries that would reasonably be expected to expose Holdings or any of its Restricted Subsidiaries to, or result in, Environmental Claims against Holdings or any of its Restricted Subsidiaries or any Environmental Liability that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and (B) any proposed action to be taken by Holdings or any of its Restricted Subsidiaries to modify their operations in a manner that would subject Holdings or any of its Restricted Subsidiaries to (x) any additional obligations or requirements under any Environmental Law or (y) Environmental Liability, in each case, that would reasonably be expected to have a Material Adverse Effect; and

(v) with reasonable promptness, such other documents and information as from time to time may be reasonably requested by Agent in relation to any matters disclosed pursuant to this Section 5.10.

(b) Hazardous Materials Activities, Etc. Holdings shall promptly take, and shall cause each of its Restricted Subsidiaries promptly to take, any and all actions necessary to (i) cure any violation of applicable Environmental Laws by Holdings or its Restricted Subsidiaries, and address with appropriate corrective or Remedial Action any Release or threatened Release of Hazardous Materials, in each case, that would reasonably be expected to have a Material Adverse Effect and (ii) make an appropriate response to any Environmental Claim against or Environmental Liability related to Holdings or any of its Restricted Subsidiaries and discharge any obligations it may have to any Person thereunder, in each case, where failure to do so would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

5.11 **Designation of Subsidiaries**. Holdings may at any time after the Closing Date designate (or re-designate) any Subsidiary as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Restricted Subsidiary; provided that (i) except to the extent such designation (or re-designation) is made utilizing Section 6.6(x), the Payment Conditions have been satisfied, (ii) no Subsidiary may be designated as an Unrestricted Subsidiary if it is a "Restricted Subsidiary" for purposes of the Term Loan Facility Agreement, (iii) as of the date of designation thereof, no Unrestricted Subsidiary shall own any Capital Stock in any Restricted Subsidiary of Holdings, and (iv) in the event that a Loan Party is designated as an Unrestricted Subsidiary (or re-designated from a Restricted Subsidiary to an Unrestricted Subsidiary) then Borrowers shall have, prior to such designation or re-designation (as the case may be), delivered to Agent an updated Borrowing Base Certificate that reflects the removal of the applicable assets from the Borrowing Base. The designation of any subsidiary as an Unrestricted Subsidiary shall constitute an Investment by Holdings therein at the date of designation in an amount equal to the portion of the fair market value of the net assets of such Restricted Subsidiary attributable to Holdings' equity interest therein (whether direct or indirect) as reasonably estimated by Holdings (and such designation shall only be permitted to the extent such Investment is permitted under Section 6.6). The designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute the making, incurrence or granting as applicable, at the time of designation of any then-existing Investment, Indebtedness or Lien of such Restricted Subsidiary, as applicable; provided that upon any re-designation of any Unrestricted Subsidiary as a Restricted Subsidiary, Holdings shall be deemed to continue to have an Investment in the resulting Restricted Subsidiary in an amount (if positive) equal to (a) Holdings' "Investment" in such subsidiary as calculated at the time re-designated as a Restricted Subsidiary, *less* (b) the portion of the fair market value of the net assets of such Restricted Subsidiary attributable to the Holdings' equity therein (whether direct or indirect) as reasonably estimated by the Borrowers at the time of such re-designation.

5.12 **Covenant to Guarantee Obligations and Give Security**.

(a) Upon (i) the formation or acquisition after the Closing Date of any Restricted Subsidiary that is a Domestic Subsidiary, (ii) the designation of any Unrestricted Subsidiary that is a Domestic Subsidiary as a Restricted Subsidiary, (iii) any Restricted Subsidiary that is a Domestic Subsidiary ceasing to be an Immaterial Subsidiary or (iv) any Restricted Subsidiary that was an Excluded Subsidiary ceasing to be an Excluded Subsidiary, (x) if the event giving rise to the obligation under this Section 5.12(a) occurs during the first three Fiscal Quarters of any Fiscal Year, on or before the date on which financial statements are required to be delivered pursuant to Section 5.1(a) for the Fiscal Quarter in which the relevant formation, acquisition, designation or cessation occurred (provided that if such date is less than sixty (60) days after the relevant formation, acquisition, designation or cessation occurred, then the date in this clause (x) shall be deemed to be the date that is sixty (60) days after the relevant formation, acquisition, designation or cessation occurred) or (y) if the event giving rise to the obligation under this Section 5.12(a) occurs during the fourth Fiscal Quarter of any Fiscal Year, on or before the date that is 60 days after the end of such Fiscal Quarter (or, in the cases of clauses (x) and (y), such longer period as Agent may reasonably agree), Holdings shall (A) cause such Restricted Subsidiary (other than any Excluded Subsidiary) to comply with the requirements set forth in the definition of "Collateral and Guarantee Requirement" and (B) upon the reasonable request of Agent, cause the relevant Restricted Subsidiary to deliver to Agent a signed copy of a customary opinion of counsel for such Restricted Subsidiary, addressed to Agent and the other relevant Lender.

(b) Notwithstanding anything to the contrary herein or in any other Loan Document, it is understood that:

(i) Agent may grant extensions of time for the creation and perfection of security interests in, or obtaining of legal opinions or other deliverables with respect to, particular assets or the provision of any Guaranty (as defined in the US Guaranty and Security Agreement) by any Restricted Subsidiary (in connection with assets acquired, or Restricted Subsidiaries formed or acquired, after the Closing Date), and each Lender hereby consents to any such extension of time,

(ii) any Lien required to be granted from time to time pursuant to the definition of "Collateral and Guarantee Requirement" shall be subject to the exceptions and limitations set forth in the Security Documents,

(iii) perfection by control shall not be required with respect to assets requiring perfection through control agreements or other control arrangements, including deposit accounts, Securities Accounts and commodities accounts (other than control of pledged Capital Stock (to the extent certificated) and/or Material Debt Instruments and to the extent required by the Term Loan Facility Agreement and subject to the Intercreditor Agreement),

(iv) no Loan Party will be required to (A) take any action outside of the U.S. or the United Kingdom in order to grant or perfect any security interest in any asset located outside of the U.S. or the United Kingdom, (B) execute any foreign law security agreement, pledge agreement, mortgage, deed or charge other than any English law Security Agreement or (C) make any foreign intellectual property filing, conduct any foreign intellectual property search or prepare any foreign intellectual property schedule other than in the UK;

(v) in no event will the Collateral include any Excluded Asset,

(vi) no action shall be required to perfect any Lien with respect to (1) any vehicle or other asset subject to a certificate of title (except with respect to any such vehicle or asset that has a fair market value (as determined in good faith by the Administrative Borrower) in excess of $150,000), (2) Letter-of-Credit Rights (except with respect to any Letter-of-Credit Rights with a value of greater than or equal to $2,500,000), (3) the Capital Stock of any Immaterial Subsidiary and/or (4) the Capital Stock of any Person that is not a subsidiary, which Person, if a subsidiary, would constitute an Immaterial Subsidiary, in each case except to the extent that a security interest therein can be perfected by filing a Form UCC-1 (or similar) financing statement under the Code,

(vii) no action shall be required to perfect a Lien in any asset in respect of which the perfection of a security interest therein would (1) be prohibited by enforceable anti-assignment provisions set forth in any contract that is permitted or otherwise not prohibited by the terms of this Agreement, (2) violate the terms of any contract relating to such asset that is permitted or otherwise not prohibited by the terms of this Agreement or (3) trigger termination of any contract relating to such asset that is permitted or otherwise not prohibited by the terms of this Agreement pursuant to any "change of control" or similar provision,

(viii) no Loan Party shall be required to perfect a security interest in any asset to the extent the perfection of a security interest in such asset would (A) be prohibited under any applicable Requirement of Law and/or (B) result in material adverse tax consequences to any Loan Party as reasonably determined by the Borrowers and specified in a written notice to the Agent,

(ix) any joinder or supplement to any Security Document and/or any other Loan Document executed by any Restricted Subsidiary that is required to become a Loan Party pursuant to Section 5.12(a) above may, with the consent of Agent (not to be unreasonably withheld or delayed), include such schedules (or updates to schedules) as may be necessary to qualify any representation or warranty set forth in any Loan Document to the extent necessary to ensure that such representation or warranty is true and correct to the extent required thereby or by the terms of any other Loan Document, and

(x) Agent shall not require the taking of a Lien on, or require the perfection of any Lien granted in, those assets as to which the cost of obtaining or perfecting such Lien (including any mortgage, stamp, intangibles or other tax or expenses relating to such Lien) is excessive in relation to the benefit to the Lenders of the security afforded thereby as reasonably determined by the Borrowers and the Agent.

5.13 **[Reserved.]**

5.14 **Further Assurances**. Promptly upon request of Agent and subject to the limitations described in Section 5.12:

(a) Holdings, Intermediate Holdings, CP Holdings LLC, and the Borrowers will, and will cause each other Loan Party to, execute any and all further documents, financing statements, agreements, instruments, certificates, notices and acknowledgments and take all such further actions (including the filing and recordation of financing statements, fixture filings and/or amendments thereto and other documents), that may be required under any applicable Requirements of Law and which Agent may reasonably request to cause to ensure the creation, perfection and priority of the Liens created or intended to be created under the Security Documents, all at the expense of the relevant Loan Parties.

(b) Holdings, Intermediate Holdings, CP Holdings LLC, and the Borrowers will, and will cause each other Loan Party to, promptly (i) correct any material defect or error that may be discovered in the execution, acknowledgment, filing or recordation of any Security Document or other document or instrument relating to any Collateral and (ii) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments, in each case under this clause (b), as Agent may reasonably request from time to time to create, perfect and maintain the priority of the security interests intended to be granted under the relevant Security Documents.

5.15 **[Reserved].**

5.16 **[Reserved].**

5.17 **Location of Inventory, Equipment and Rolling Stock.** Holdings, Intermediate Holdings, CP Holdings LLC, and each Borrower will, and will cause each of its Subsidiaries to, keep its Inventory, Equipment and Rolling Stock only at the locations identified on Schedule 4.25 (other than (i) with respect to Rolling Stock (and Equipment related thereto) in "over the road use", out for repair or out on assignment, in each case, in the ordinary course of business and (ii) leased locations at which the value of the Inventory, Equipment and Rolling Stock of Holdings and its Subsidiaries located thereon is less than $500,000 in the aggregate) and their chief executive offices only at the locations identified on Schedule 5.17.

5.18 **Bank Products**. The US Loan Parties shall maintain their primary depository and treasury management relationships (excluding, for the avoidance of doubt, any Hedge Agreements and card programs (including credit cards, stored value cards, and purchasing card programs)) with Wells Fargo or one or more of its Affiliates (provided such depository and treasury management products are offered on commercially reasonable terms) at all times during the term of this Agreement.

5.19 **OFAC; Sanctions; Anti-Corruption Laws; Anti-Money Laundering Laws; Beneficial Ownership Regulation** . Each Loan Party will, and will cause each of its Subsidiaries to comply with all applicable Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws. Each of the Loan Parties and its Subsidiaries shall implement and maintain in effect policies and procedures designed to ensure compliance by the Loan Parties and their Subsidiaries and their respective directors, officers, employees, agents and Affiliates with all Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws. Each of the Loan Parties shall and shall cause their respective Subsidiaries to comply with all Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws. Each Loan Party will, and will cause each of its Subsidiaries to, notify Agent and each Lender that previously received a Beneficial Ownership Certification of any change in the information provided in the Beneficial Ownership Certification that would result in a change to the list of beneficial owners identified therein and, promptly upon the reasonable request of Agent or any Lender, provide Agent or such Lender, as the case may be, any information or documentation requested by it for purposes of complying with the Beneficial Ownership Regulation.

5.20 **Rolling Stock.**

(a) Holdings, Intermediate Holdings, CP Holdings LLC, and each Borrower will, and will cause each of its Subsidiaries to, at all times maintain records with respect to Rolling Stock Collateral reasonably satisfactory to Agent, keeping correct, detailed and accurate records describing the Rolling Stock Collateral, the quality and repair records with respect thereto, and such Loan Party's or Subsidiaries' cost therefor.

(b) Subject to the terms of the Intercreditor Agreement, unless and until Agent may direct otherwise, (i) any manufacturers' statements of origin or manufacturers' certificates of origin and other certificates, statements, bills of sale or other evidence of the transfer to or ownership of any Loan Party of any of the Rolling Stock Collateral, and (ii) if applicable, any Certificates of Title at any time issued under the laws of any State or other jurisdiction with respect to any of the Rolling Stock Collateral that is located in the United States, in each case, shall be held only at the locations set forth in the Rolling Stock Custodian Agreements or as otherwise permitted by Agent in its sole discretion. In addition, and not in limitation of the rights of Agent hereunder or under the Rolling Stock Custodian Agreements, promptly upon Agent's request, Agent may require that Rolling Stock Collateral Custodian deliver any or all of such items subject to the terms of the Rolling Stock Custodian Agreements to Agent or to such third party as Agent may specify.

5.21 **People with Significant Control Regime**. Each UK Borrower shall:

(a) within the relevant timeframe, comply with any notice it receives pursuant to Part 21A of the Companies Act 2006 (UK) from any company incorporated in the United Kingdom whose shares are the subject of any UK Security Document; and

(b) promptly provide UK Security Agent with a copy of that notice.

5.22 **Collateral Access Agreements.** Subject to Section 3.6, the Loan Parties shall use commercially reasonable efforts to deliver a Collateral Access Agreement to Agent with respect to any parcel of Real Property owned or leased by any Loan Party where Collateral in excess of $500,000 of fair market value is located to the extent reasonably requested by Agent from time to time.

5.23 **Depreciation Policy.**

(a) The UK Administrative Borrower shall notify Agent in writing 15 Business Days before any UK Borrower amends, supplements or replaces its Depreciation Policy.

(b) On receipt of any notice in accordance with Section 5.20(a) above, Agent and the UK Borrowers shall recalculate the net book value of Eligible Rolling Stock Collateral taking into account the new Depreciation Policy and the UK Administrative Borrower shall, on request by Agent, supply an valuation in order to make such recalculation.

6. **NEGATIVE COVENANTS.**

From the Closing Date and until the Termination Date has occurred, each of Holdings (solely with respect to Section 6.11 and 6.13(i)), Intermediate Holdings (solely with respect to Section 6.11 and 6.13(i)), CP Holdings LLC (solely with respect to Section 6.11 and 6.13(i)), and the Borrowers covenant and agree with the Lenders that:

6.1 **Indebtedness**. The Borrowers shall not, nor shall it permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, assume or otherwise become or remain liable with respect to any Indebtedness, except:

(a) the Obligations;

(b) Indebtedness of the Borrowers owed to any Restricted Subsidiary and/or of any Restricted Subsidiary or the Borrowers owed to Holdings, Intermediate Holdings, CP Holdings LLC, and/or any other Restricted Subsidiary; provided that in the case of any Indebtedness of any Restricted Subsidiary that is not a Loan Party owing to the Borrowers or any Subsidiary Guarantor, such Indebtedness shall be permitted as an Investment under Section 6.6; provided, further, that any Indebtedness of any Loan Party owing to any Restricted Subsidiary that is not a Loan Party must be expressly subordinated to the Obligations of such Loan Party pursuant to the Intercompany Subordination Agreement or on terms that are otherwise reasonably acceptable to Agent;

(c) unsecured Indebtedness arising from any agreement providing for indemnification, adjustment of purchase price or similar obligations (including seller notes and contingent earn-out obligations) incurred in connection with any Permitted Acquisition or other Permitted Investments, in each case subject to satisfaction of the Payment Conditions;

(d) Indebtedness of Holdings, Intermediate Holdings, CP Holdings LLC, and/or any Restricted Subsidiary (i) pursuant to tenders, statutory obligations, bids, leases, governmental contracts, trade contracts, surety, stay, customs, appeal, performance and/or return of money bonds or other similar obligations incurred in the ordinary course of business and (ii) in respect of any letters of credit, bank guaranties, surety bonds, performance bonds or similar instruments to support any of the foregoing items;

(e) Indebtedness of the Borrowers and/or any Restricted Subsidiary in respect of commercial credit cards, stored value cards, purchasing cards, treasury management services, netting services, overdraft protections, check drawing services, automated payment services (including depository, overdraft, controlled disbursement, ACH transactions, return items and interstate depository network services), employee credit card programs, cash pooling services and any arrangements or services similar to any of the foregoing and/or otherwise in connection with cash management and Deposit Accounts, including Bank Product Obligations and incentive, supplier finance or similar programs;

(f) (i) Guarantees by the Borrowers or any of its Restricted Subsidiaries of the obligations of suppliers, customers and licensees in the ordinary course of business, (ii) Indebtedness incurred in the ordinary course of business in respect of obligations of the Borrowers and/or any Restricted Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services and (iii) Indebtedness in respect of letters of credit, bankers' acceptances, bank guaranties or similar instruments supporting trade payables, warehouse receipts or similar facilities entered into in the ordinary course of business;

(g) Guarantees by the Borrowers and/or any Restricted Subsidiary of Indebtedness or other obligations of Holdings, Intermediate Holdings, CP Holdings LLC, or any Restricted Subsidiary with respect to Indebtedness otherwise permitted to be incurred pursuant to this Section 6.1 or other obligations not prohibited by this Agreement; provided that in the case of any Guarantee by any Loan Party of the obligations of any non-Loan Party, the related Investment is permitted under Section 6.6;

(h) Indebtedness of the Borrowers and/or any Restricted Subsidiary existing, or pursuant to commitments existing, on the Closing Date and described on Schedule 6.1 and intercompany Indebtedness outstanding on the Closing Date;

(i) Indebtedness of Restricted Subsidiaries that are not Loan Parties; provided that the aggregate principal amount at any time outstanding of such Indebtedness shall not exceed the Non-Loan Party Cap;

(j) Indebtedness of the Borrowers and/or any Restricted Subsidiary with respect to Capital Leases and purchase money Indebtedness incurred prior to or within 270 days of the acquisition, lease, completion of construction, repair of, replacement, improvement to or installation of the assets acquired, leased, constructed, repaired, replaced, improved or installed in connection with the incurrence of such Indebtedness in an aggregate outstanding principal amount not to exceed (A) with respect to such Indebtedness incurred within the United Kingdom under this clause (j) and clause (w) below, the greater of $2,000,000 and two and one-half percent (2.5%) of Consolidated Adjusted EBITDA for the most recently ended Test Period in the aggregate and (B) with respect to such Indebtedness incurred in jurisdictions other than the United Kingdom under this clause (j) and clause (w) below, the greater of $10,000,000 and ten percent (10%) of Consolidated Adjusted EBITDA for the most recently ended Test Period in the aggregate;

(k) Indebtedness of any Person that becomes a Restricted Subsidiary or Indebtedness assumed in connection with a Permitted Acquisition or other Permitted Investments; provided that (i) such Indebtedness (1) existed at the time such Person became a Restricted Subsidiary or the assets subject to such Indebtedness were acquired and (2) was not created or incurred in anticipation thereof, (ii) no Event of Default exists or would result from such acquisition or investment, (iii) after giving effect to the assumption thereof, the outstanding principal amount of Non-Loan Party Indebtedness does not exceed the Non-Loan Party Cap, (iv) after giving effect to the assumption thereof, (1) if such Indebtedness is secured by a Lien on the Collateral that is pari passu with the Lien on the Collateral securing the "Secured Obligations" (as defined in the Term Loan Facility Agreement), the First Lien Leverage Ratio does not exceed 3.50:1.00, (2) if such Indebtedness is secured by a Lien on the Collateral that is junior to the Lien on the Collateral securing the "Secured Obligations" (as defined in the Term Loan Facility Agreement), the Secured Leverage Ratio does not exceed 3.75:1.00 and (3) if such Indebtedness is unsecured, the Total Leverage Ratio does not exceed 4.20:1.00; and (v) if such Indebtedness is secured by all or any portion of the Collateral, such Indebtedness shall be subject to an Acceptable Intercreditor Agreement, and such Acceptable Intercreditor Agreement provides that the Liens on the ABL Priority Collateral and the UK Collateral securing such Indebtedness shall rank junior in priority to the Liens on the ABL Priority Collateral and the UK Collateral securing the Obligations;

(l) Indebtedness consisting of promissory notes issued by the Borrowers or any Restricted Subsidiary to any stockholder of any Parent Company or any current or former director, officer, employee, member of management, manager or consultant of any Parent Company, the Borrowers or any subsidiary (or their respective Immediate Family Members) to finance the purchase or redemption of Capital Stock of any Parent Company permitted by Section 6.4(a);

(m) The Borrowers and any of their Restricted Subsidiaries may become and remain liable for any Indebtedness refinancing, refunding or replacing any Indebtedness permitted under this clause (m) and clauses (a), (c), (h), (i), (j), (k), (n), (p), (r) and (w) of this Section 6.1 (in any case, including any refinancing Indebtedness incurred in respect thereof, "Refinancing Indebtedness") and any subsequent Refinancing Indebtedness in respect thereof; provided that any refinancing, refunding or replacement of Indebtedness permitted under Section 6.1(c), (i), (j), (n), (r) or (w) shall continue to constitute utilization of the applicable basket; provided further that:

(i) the principal amount of such Indebtedness does not exceed the principal amount of the Indebtedness being refinanced, refunded or replaced, except by (A) an amount equal to unpaid accrued interest and premiums (including tender premiums) thereon plus underwriting discounts, other reasonable and customary fees, commissions and expenses (including upfront fees, original issue discount or initial yield payments) incurred in connection with the relevant refinancing, refunding or replacement and (B) additional amounts permitted to be incurred pursuant to this Section 6.1 (so long as such Indebtedness is permitted to be incurred pursuant to a subsection of this Section 6.1, other than this Section 6.1(m), and, to the extent secured by Liens, such Liens are permitted to secure such Indebtedness pursuant to a subsection of Section 6.2, other than Section 6.2(k) and is deemed to constitute a utilization of the relevant basket or exception pursuant to which such additional amount is permitted),

(ii) other than in the case of Refinancing Indebtedness with respect to clauses (h), (j), (k), and/or (o) of this Section 6.1 (A) such Indebtedness has a final maturity equal to or later than (and, in the case of revolving Indebtedness, does not require mandatory commitment reductions, if any, prior to) the final maturity of the Indebtedness being refinanced, refunded or replaced and (B) other than with respect to revolving Indebtedness, a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of the Indebtedness being refinanced, refunded or replaced,

(iii) the terms of any Refinancing Indebtedness (excluding pricing, fees, premiums, rate floors, optional prepayment or redemption terms (and, if applicable, subordination terms) and, with respect to Refinancing Indebtedness incurred in respect of Indebtedness permitted under clause (a) above, security), are not, taken as a whole (as reasonably determined by Holdings), more favorable to the lenders providing such Indebtedness than those applicable to the Indebtedness being refinanced, refunded or replaced (other than any covenants or any other provisions applicable only to periods after the Latest Maturity Date as of such date or any covenants or provisions which are then-current market terms for the applicable type of Indebtedness),

(iv) except in the case of Refinancing Indebtedness incurred in respect of Indebtedness permitted under clause (a) of this Section 6.1, (A) such Indebtedness, if secured, is secured only by Permitted Liens at the time of such refinancing, refunding or replacement (it being understood that such secured Indebtedness may go from being secured to being unsecured), (B) such Indebtedness is incurred by the obligor or obligors in respect of the Indebtedness being refinanced, refunded or replaced, except to the extent otherwise permitted pursuant to Sections 6.1, 6.2 and 6.6 and (C) if the Indebtedness being refinanced, refunded or replaced was originally contractually subordinated to the Obligations in right of payment (or the Liens securing such Indebtedness were originally contractually subordinated to the Liens on the Collateral securing the Obligations), such Indebtedness is contractually subordinated to the Obligations in right of payment (or the Liens securing such Indebtedness are subordinated to the Liens on the Collateral securing the Revolving Loans) on terms not materially less favorable (as reasonably determined by the Borrower), taken as a whole, to the Lenders than those applicable to the Indebtedness (or Liens, as applicable) being refinanced, refunded or replaced, taken as a whole,

(v) in the case of Refinancing Indebtedness incurred in respect of Indebtedness permitted under clause (a) of this Section 6.1, (A) such Indebtedness is pari passu or junior in right of payment and secured by the Collateral on a pari passu or junior basis with respect to the remaining Obligations hereunder, or is unsecured; provided that any such Indebtedness that is pari passu or junior with respect to the Collateral shall be subject to an Acceptable Intercreditor Agreement, and such Acceptable Intercreditor Agreement shall provide that the Liens on the ABL Priority Collateral and the UK Collateral securing such Indebtedness shall rank junior in priority to the Liens on the ABL Priority Collateral and UK Collateral securing the Obligations, (B) if the Indebtedness being refinanced, refunded or replaced is secured, it is not secured by any assets other than the Collateral, (C) if the Indebtedness being refinanced, refunded or replaced is Guaranteed, it shall not be Guaranteed by any Person other than one or more Loan Parties and (D) such Indebtedness is incurred under (and pursuant to) documentation other than this Agreement; it being understood and agreed that any such Indebtedness may not participate on a greater than pro rata basis in any mandatory prepayment in respect of Revolving Loans; and

(vi) intercompany Indebtedness under Section 6.1(h) may only be refinanced, refunded or replaced with other intercompany Indebtedness;

(n) Indebtedness of the Borrowers and/or any Restricted Subsidiary in an aggregate outstanding principal amount not to exceed $15,000,000;

(o) to the extent constituting Indebtedness, obligations arising under the Concrete Pumping Acquisition Agreement;

(p) additional Indebtedness of the Borrowers and/or any Restricted Subsidiary so long as (i) no Event of Default has occurred and is continuing or would result therefrom and (ii) after giving effect thereto, including the application of the proceeds thereof (but without "netting" cash proceeds of the applicable Indebtedness), (ii) (1) if such Indebtedness is secured by a Lien on the Collateral that is pari passu with the Lien on the Collateral securing the "Secured Obligations" (as defined in the Term Loan Facility Agreement), the First Lien Leverage Ratio does not exceed 3.50:1.00, (3) if such Indebtedness is secured by a Lien on the Collateral that is junior to the Lien on the Collateral securing the "Secured Obligations" (as defined in the Term Loan Facility Agreement), the Secured Leverage Ratio does not exceed 3.75:1.00, (4) if such Indebtedness is unsecured, the Total Leverage Ratio does not exceed 4.20:1.00, and (5) if such Indebtedness is secured by all or any portion of the Collateral, such Indebtedness shall be subject to an Acceptable Intercreditor Agreement, providing that the Liens on the ABL Priority Collateral and UK Collateral securing such Indebtedness shall rank junior in priority to the Liens on the ABL Priority Collateral and UK Collateral securing the Obligations, (iii) any such Indebtedness that is subordinated to the Obligations in right of payment or collateral shall be subject to an Acceptable Intercreditor Agreement, (iv) the Weighted Average Life to Maturity applicable to such Indebtedness (other than customary bridge loans with a maturity date of no longer than one year; provided that any Indebtedness exchanged for such bridge loans shall be subject to the requirements of this clause (iv)) is no shorter than the Weighted Average Life to Maturity of the then-existing Term Loans (as defined in the Term Loan Facility Agreement), (v) the final maturity date with respect to such Indebtedness (other than customary bridge loans with a maturity date of no longer than one year; provided that any Indebtedness exchanged for such bridge loans shall be subject to the requirements of this clause (v)) is no earlier than the Maturity Date on the date of the issuance or incurrence, as applicable, thereof and (vi) in the case of any such Indebtedness in the form of term loans (other than customary bridge loans) that are pari passu with the Revolving Loans in right of payment and with respect to security, the Effective Yield applicable thereto will not be more than 0.50% per annum higher than the Effective Yield in respect of the Revolving Loans unless the Effective Yield with respect to the Revolving Loans is adjusted to be equal to the Effective Yield applicable to such Indebtedness, minus 0.50% per annum; provided, however, that the aggregate outstanding principal amount of Non-Loan Party Indebtedness shall not, at any time, exceed the Non-Loan Party Cap;

(q) (i) Indebtedness of the Borrowers and/or any Restricted Subsidiary incurred in respect of the Term Loan Facility Agreement in an aggregate outstanding principal or committed amount that does not exceed $357,000,000 plus the aggregate amount of any "Incremental Facility" and "Incremental Equivalent Debt" (each as defined in the Term Loan Facility Agreement as in effect on the date hereof) made or effected in accordance with the terms thereof plus any accrued interest, penalties, premiums, expenses and indemnification obligations under the Term Loan Facility, or any "Incremental Facility" and "Incremental Equivalent Debt" (each as defined in the Term Loan Facility Agreement as in effect on the date hereof) made or effected in accordance with the terms thereof, and (ii) any Guarantee of any Indebtedness by Holdings, Intermediate Holdings, CP Holdings LLC, the Borrowers and/or any Restricted Subsidiary and any permitted refinancing of any Indebtedness incurred pursuant to clause (i) above to the extent such refinancing is permitted by the Term Loan Facility Agreement;

(r) Incremental Equivalent Debt;

(s) Indebtedness (including obligations in respect of letters of credit, bank guaranties, surety bonds, performance bonds or similar instruments with respect to such Indebtedness) incurred by the Borrowers and/or any Restricted Subsidiary in respect of workers' compensation claims, unemployment insurance (including premiums related thereto), other types of social security, pension obligations, vacation pay, health, disability or other employee benefits;

(t) Indebtedness of the Borrowers and/or any Restricted Subsidiary representing (i) deferred compensation to current or former directors, officers, employees, members of management, managers, and consultants of Holdings, Intermediate Holdings, CP Holdings LLC, the Borrowers and/or any Restricted Subsidiary in the ordinary course of business and (ii) deferred compensation or other similar arrangements in connection with the Transactions, any Permitted Acquisition or any other Investment permitted hereby;

(u) Indebtedness of the Borrowers and/or any Restricted Subsidiary to the extent supported by any Letter of Credit;

(v) Indebtedness under Derivative Transactions that are not entered into for speculative purposes;

(w) Capitalized Lease Obligations arising under any Sale and Lease-Back Transaction permitted under Section 6.7(x); provided, that at the time of incurrence of any such Indebtedness and after giving pro forma effect thereto and the use of proceeds thereof the aggregate outstanding principal amount then outstanding under this clause (w) and clause (j) above shall not exceed (A) with respect to such Indebtedness incurred within the United Kingdom under this clause (w) and clause (j) above, the greater of $2,000,000 and two and one-half percent (2.5%) of Consolidated Adjusted EBITDA for the most recently ended Test Period in the aggregate and (b) with respect to such Indebtedness incurred in jurisdictions other than the United Kingdom under this clause (w) and clause (j) above, the greater of $10,000,000 and ten percent (10%) of Consolidated Adjusted EBITDA for the most recently ended Test Period in the aggregate;

(x) without duplication of any other Indebtedness, all premiums (if any), interest (including post-petition interest and payment in kind interest), accretion or amortization of original issue discount, fees, expenses and charges with respect to Indebtedness of the Borrowers and/or any Restricted Subsidiary permitted under this Section 6.1; and

(y) unsecured Indebtedness of the Borrowers and/or any Restricted Subsidiary subject to satisfaction of the Payment Conditions; provided, that (x) the Weighted Average Life to Maturity applicable to such Indebtedness (other than customary bridge loans with a maturity date of no longer than one year; provided that any Indebtedness exchanged for such bridge loans shall be subject to the requirements of this clause (x)) is no shorter than the Weighted Average Life to Maturity of the then-existing Term Loans (as defined in the Term Loan Facility Agreement), (y) the final maturity date with respect to such Indebtedness (other than customary bridge loans with a maturity date of no longer than one year; provided that any Indebtedness exchanged for such bridge loans shall be subject to the requirements of this clause (y)) is no earlier than the Latest Term Loan Maturity Date on the date of the issuance or incurrence, as applicable, thereof, and (z) the terms of such Indebtedness do not provide for any mandatory prepayments (other than scheduled principal and interest payments) prior to the Latest Term Loan Maturity Date.

6.2 **Liens**. The Borrowers shall not, nor shall it permit any of its Restricted Subsidiaries to, create, incur, assume or permit or suffer to exist any Lien on or with respect to any property of any kind owned by it, whether now owned or hereafter acquired, or any income or profits therefrom, except:

(a) Liens securing the Obligations created pursuant to the Loan Documents;

(b) Liens for Taxes which are (i) not then due or (ii) if due, not then required to be paid pursuant to Section 5.4;

(c) statutory Liens (and rights of set-off) of landlords, banks, carriers, warehousemen, mechanics, repairmen, workmen and materialmen, and other Liens imposed by applicable Requirements of Law, in each case incurred in the ordinary course of business (i) for amounts not yet overdue by more than 30 days, (ii) for amounts that are overdue by more than 30 days and that are being contested in good faith by appropriate proceedings, so long as any reserves or other appropriate provisions required by GAAP have been made for any such contested amounts or (iii) with respect to which the failure to make payment would not reasonably be expected to have a Material Adverse Effect;

(d) Liens incurred (i) in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security laws and regulations, (ii) in the ordinary course of business to secure the performance of tenders, statutory obligations, surety, stay, customs 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), (iii) pursuant to pledges and deposits of cash or Cash Equivalents in the ordinary course of business securing (x) any liability for reimbursement or indemnification obligations of insurance carriers providing property, casualty, liability or other insurance to Holdings, Intermediate Holdings, CP Holdings LLC, the Borrowers and their subsidiaries or (y) leases or licenses of property otherwise permitted by this Agreement and (iv) to secure obligations in respect of letters of credit, bank guaranties, surety bonds, performance bonds or similar instruments posted with respect to the items described in clauses (i) through (iii) above;

(e) Liens consisting of easements, rights-of-way, restrictions, encroachments, and other minor defects or irregularities in title, in each case which do not, individually or in the aggregate, materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the Borrowers and their Restricted Subsidiaries, taken as a whole, or the use of the affected property for its intended purpose;

(f) Liens consisting of any (i) interest or title of a lessor or sub-lessor under any lease of real estate permitted hereunder, (ii) landlord lien permitted by the terms of any lease, (iii) restriction or encumbrance to which the interest or title of such lessor or sub-lessor may be subject or (iv) subordination of the interest of the lessee or sub-lessee under such lease to any restriction or encumbrance referred to in the preceding clause (iii);

(g) Liens solely on any cash earnest money deposits made by Holdings and/or any of its Restricted Subsidiaries in connection with any letter of intent or purchase agreement with respect to any Investment permitted hereunder;

(h) purported Liens evidenced by the filing of Uniform Commercial Code financing statements or similar filings relating solely to operating leases;

(i) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(j) Liens in connection with any zoning, building or similar Requirement of Law or right reserved to or vested in any Governmental Authority to control or regulate the use of any or dimensions of real property or the structure thereon, including Liens in connection with any condemnation or eminent domain proceeding or compulsory purchase order;

(k) Liens securing Indebtedness permitted pursuant to Section 6.1(m) (solely with respect to the permitted refinancing of (x) Indebtedness permitted pursuant to Sections 6.1(a), (j), (k), and (r) and (y) Indebtedness that is secured in reliance on Section 6.2(s) (without duplication of any amount outstanding thereunder, and which shall continue to constitute utilization of the basket set forth therein)); provided that (i) no such Lien extends to any asset not covered by the Lien securing the Indebtedness that is being refinanced and (ii) if the Lien securing the Indebtedness being refinanced was subject to intercreditor arrangements, then (A) the Lien securing any refinancing Indebtedness in respect thereof shall be subject to intercreditor arrangements that are not materially less favorable to the Secured Parties, taken as a whole, than the intercreditor arrangements governing the Lien securing the Indebtedness that is refinanced or (B) the intercreditor arrangements governing the Lien securing the relevant refinancing Indebtedness shall be set forth in an Acceptable Intercreditor Agreement;

(l) Liens described on Schedule 6.2 and any modification, replacement, refinancing, renewal or extension thereof; provided that (i) no such Lien extends to any additional property other than (A) after-acquired property that is affixed or incorporated into the property covered by such Lien and (B) proceeds and products thereof, accessions thereto and improvements thereon (it being understood that individual financings of the type permitted under Section 6.1(j) provided by any lender may be cross-collateralized to other financings of such type provided by such lender or its affiliates) and (ii) such modification, replacement, refinancing, renewal or extension of the obligations secured or benefited by such Liens, if constituting Indebtedness, is permitted by Section 6.1;

(m) Liens securing Indebtedness permitted pursuant to Section 6.1(j); provided that any such Lien shall encumber only the asset acquired with the proceeds of such Indebtedness and proceeds and products thereof, accessions thereto and improvements thereon (it being understood that individual financings of the type permitted under Section 6.1(j) provided by any lender may be cross-collateralized to other financings of such type provided by such lender or its affiliates);

(n) Liens securing Indebtedness permitted pursuant to Section 6.1(k) on the relevant acquired assets or on the Capital Stock and assets of the relevant newly acquired Restricted Subsidiary; provided that no such Lien (x) extends to or covers any other assets (other than the proceeds or products thereof, accessions or additions thereto and improvements thereon) or (y) was created in contemplation of the applicable acquisition of assets or Capital Stock;

(o) (i) Liens that are contractual rights of setoff or netting relating to (A) the establishment of depositary relations with banks not granted in connection with the issuance of Indebtedness, (B) pooled deposit or sweep accounts of the Borrowers and/or any Restricted Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrowers and/or any Restricted Subsidiary, (C) purchase orders and other agreements entered into with customers of the Borrowers and/or any Restricted Subsidiary in the ordinary course of business and (D) commodity trading or other brokerage accounts incurred in the ordinary course of business other than, in each such case, any UK Blocked Account, (ii) Liens encumbering reasonable customary initial deposits and margin deposits, (iii) bankers Liens and rights and remedies as to Deposit Accounts other than in respect of any UK Blocked Account and (iv) Liens on the proceeds of any Indebtedness incurred in connection with any transaction permitted hereunder, which proceeds have been deposited into an escrow account on customary terms to secure such Indebtedness pending the application of such proceeds to finance such transaction;

(p) Liens securing obligations (other than obligations representing Indebtedness for borrowed money) under operating, reciprocal easement or similar agreements entered into in the ordinary course of business of the Borrowers and/or its Restricted Subsidiaries;

(q) Liens on fixed or capital assets subject to any Sale and Lease-back Transaction permitted under Section 6.7(x); provided that (i) such Liens secure only Indebtedness permitted by Section 6.1(w) and obligations relating thereto not constituting Indebtedness and (ii) such Lien shall encumber only the asset acquired with the proceeds of such Indebtedness and proceeds and products thereof, accessions thereto and improvements thereon (it being understood that individual financings of the type permitted under Section 6.1(w) provided by any lender may be cross-collateralized to other financings of such type provided by such lender or its affiliates);

(r) Liens securing Indebtedness incurred pursuant to Sections 6.1(q) and (r), in each case, subject to an Acceptable Intercreditor Agreement, and such Acceptable Intercreditor Agreement shall provide that the Liens on the ABL Priority Collateral and the UK Collateral securing such Indebtedness shall rank junior in priority to the Liens on the ABL Priority Collateral and UK Collateral securing the Obligations;

(s) other Liens on assets securing Indebtedness or other obligations in an aggregate principal amount at any time outstanding not to exceed $15,000,000; provided that any such Liens on ABL Priority Collateral and UK Collateral are junior to the Agent's and UK Security Agent's Liens on the ABL Priority Collateral and UK Collateral and are subject to an Acceptable Intercreditor Agreement;

(t) Liens on assets securing judgments, awards, attachments and/or decrees and notices of *lis pendens* and associated rights not constituting an Event of Default under Section 8.1(h);

(u) leases, subleases, licenses or sublicenses granted to others in the ordinary course of business which do not secure any Indebtedness;

(v) Liens on securities that are the subject of repurchase agreements constituting Investments permitted under Section 6.6 arising out of such repurchase transaction;

(w) Liens securing obligations in respect letters of credit, bank guaranties, surety bonds, performance bonds or similar instruments permitted under Sections 6.1(d), (f), and (s);

(x) Liens arising (i) out of conditional sale, title retention, consignment or similar arrangements for the sale of any asset in the ordinary course of business and permitted by this Agreement or (ii) by operation of law under Article 2 of the Code (or similar Requirements of Law of any jurisdiction);

(y) Liens (i) in favor of any Loan Party and/or (ii) granted by any non-Loan Party in favor of any Restricted Subsidiary that is not a Loan Party, in the case of each of clauses (i) and (ii), securing intercompany Indebtedness permitted under Section 6.1;

(z) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(aa) Liens on specific items of inventory or other goods and the proceeds thereof securing the relevant Person's obligations in respect of documentary letters of credit or banker's acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or goods;

(bb) [reserved];

(cc) (i) Liens on Capital Stock of joint ventures or Unrestricted Subsidiaries securing capital contributions to, or obligations of, such Persons and (ii) customary rights of first refusal and tag, drag and similar rights in joint venture agreements and agreements with respect to non-Wholly-Owned Subsidiaries;

(dd) Liens on cash, Cash Equivalents or other property arising in connection with the defeasance, discharge or redemption of Indebtedness; and

(ee) Liens securing Indebtedness incurred in reliance on, and subject to the provisions set forth in, Section 6.1(p) and Section 6.1(q); provided, that any Lien that is granted in reliance on this clause (ee) on the Collateral and is pari passu or junior to the Lien securing the "Secured Obligations" (as defined in the Term Loan Facility Agreement) shall be subject to an Acceptable Intercreditor Agreement and shall not be pari passu to the Lien on ABL Priority Collateral and UK Collateral securing the Obligations.

6.3 **No Further Negative Pledges; Burdensome Agreements**. The Borrowers shall not, nor shall they permit any of their Restricted Subsidiaries to enter into any agreement prohibiting the creation or assumption of any Lien upon its properties, whether now owned or hereafter acquired, for the benefit of the Secured Parties with respect to the Obligations, except with respect to:

(a) specific property to be sold pursuant to any Disposition permitted by Section 6.7;

(b) restrictions contained in any agreement with respect to Indebtedness permitted by Section 6.1 that is secured by a Permitted Lien, but only if such restrictions apply only to the Person or Persons obligated under such Indebtedness and its or their Restricted Subsidiaries or the property or assets securing such Indebtedness;

(c) restrictions contained in the documentation governing Indebtedness permitted by clauses (j), (n), (p), (q), (r) and/or (w) of Section 6.1 (and clause (m) of Section 6.1 to the extent relating to any refinancing, refunding or replacement of Indebtedness incurred in reliance on clauses (a), (j), (n), (p), (q), (r) and/or (w) of Section 6.1);

(d) restrictions by reason of customary provisions restricting assignments, subletting or other transfers (including the granting of any Lien) contained in leases, subleases, licenses, sublicenses and other agreements entered into in the ordinary course of business (provided that such restrictions are limited to the relevant leases, subleases, licenses, sublicenses or other agreements and/or the property or assets secured by such Liens or the property or assets subject to such leases, subleases, licenses, sublicenses or other agreements, as the case may be);

(e) Permitted Liens and restrictions in the agreements relating thereto that limit the right of the Borrowers and/or any Restricted Subsidiary to Dispose of, or encumber the assets subject to such Liens;

(f) provisions limiting the Disposition or distribution of assets or property in joint venture agreements, sale-leaseback agreements, stock sale agreements and other similar agreements, which limitation is applicable only to the assets that are the subject of such agreements (or the Persons the Capital Stock of which is the subject of such agreement);

(g) any encumbrance or restriction assumed in connection with an acquisition of the property or Capital Stock of any Person, so long as such encumbrance or restriction relates solely to the property so acquired (or to the Person or Persons (and its or their subsidiaries) bound thereby) and was not created in connection with or in anticipation of such acquisition;

(h) restrictions imposed by customary provisions in partnership agreements, limited liability company organizational governance documents, joint venture agreements and other similar agreements that restrict the transfer of the assets of, or ownership interests in, the relevant partnership, limited liability company, joint venture or any similar Person;

(i) restrictions on cash or other deposits imposed by Persons under contracts entered into in the ordinary course of business or for whose benefit such cash or other deposits exist;

(j) restrictions set forth in documents which exist on the Closing Date;

(k) restrictions contained in documents governing Indebtedness permitted hereunder of any Restricted Subsidiary that is not a Loan Party;

(l) restrictions set forth in any Loan Document, any Hedge Agreement and/or any agreement relating to any Bank Product Obligation; and

(m) other restrictions or encumbrances imposed by any amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing of the contracts, instruments or obligations referred to in clauses (a) through (l) above; provided that no such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing is, in the good faith judgment of the Borrower, may be more restrictive with respect to such encumbrances and other restrictions, taken as a whole, than those in effect prior to the relevant amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

6.4 **Restricted Payments; Restricted Debt Payments**.

(a) The Borrowers shall not pay or make, directly or indirectly, any Restricted Payment, except that:

(i) the Borrowers may make Restricted Payments to the extent necessary to permit any Parent Company:

(A) to (1) pay general administrative and operating costs and expenses (including corporate overhead, legal or similar expenses and customary salary, bonus and other benefits payable to officers, employees, members of management, managers, employees and/or consultants of any Parent Company (and/or any Immediate Family Member of any of the foregoing)) and franchise fees, franchise Taxes and similar fees, Taxes and expenses required to maintain the organizational existence of such Parent Company, in each case, which are reasonable and customary and incurred in the ordinary course of business, to the extent attributable to the ownership or operations of Holdings (but excluding, for the avoidance of doubt, the portion of any such amount, if any, that is attributable to the ownership or operations of any subsidiary of Holdings other than Intermediate Holdings, CP Holdings LLC, Buyer, the Borrowers and/or their subsidiaries), Intermediate Holdings, CP Holdings LLC, Buyer, the Borrowers and their subsidiaries; provided, that Restricted Payments made pursuant to this Section 6.4(a)(i)(A)(1) shall not exceed $5,000,000 in any Fiscal Year, (2) pay customary salary or fees payable to directors of any Parent Company (and/or any Immediate Family Member of the foregoing), which is reasonable and customary and incurred in the ordinary course of business, to the extent attributable to the ownership of Intermediate Holdings, CP Holdings LLC, Buyer, the Borrowers and/or their subsidiaries, subject, in the case of salary or fees in respect of directors appointed by, and representatives of, the Sponsor, to the aggregate cap set forth in clause (a) of the definition of "Sponsor Fees", (3) any reasonable and customary indemnification claims made by directors, officers, members of management, managers, employees or consultants of any Parent Company, in each case, to the extent attributable to the ownership or operations of Holdings (but excluding, for the avoidance of doubt, the portion of any such amount, if any, that is attributable to the ownership or operations of any subsidiary of Holdings other than Intermediate Holdings, CP Holdings LLC, Buyer, the Borrowers and/or its subsidiaries), Intermediate Holdings, CP Holdings LLC, Buyer, the Borrowers and their subsidiaries; and (4) pay costs and expenses, including any public company costs, associated with the compliance by Holdings with the requirements and/or regulations applicable to public companies, including, without limitation, the "Sarbanes-Oxley" legislation and related regulatory rules and regulations promulgated thereunder;

(B) to pay Taxes due and payable by such Parent Company to any taxing authority and that are attributable to the income or operation of Holdings, Intermediate Holdings, CP Holdings LLC, Buyer, the Borrowers or their Restricted Subsidiaries, including any consolidated, combined or similar income tax liabilities attributable to taxable income of Holdings, Intermediate Holdings, CP Holdings LLC, Buyer, Borrowers and their Restricted Subsidiaries; provided that such Tax payment shall not exceed the Taxes of the Borrowers and their Restricted Subsidiaries that would be payable if the Borrowers and their Restricted Subsidiaries were a separate consolidated, combined, unitary or similar group; provided, further that the amount permitted under this subclause (B) relating to Taxes that are attributable to the taxable income of Unrestricted Subsidiaries in any period shall be limited to the amount of dividends and other distributions actually made by such Unrestricted Subsidiaries to any Restricted Subsidiary for such purpose;

(C) to pay audit and other accounting and reporting expenses of such Parent Company to the extent attributable to Holdings (but excluding, for the avoidance of doubt, the portion of any such expenses, if any, attributable to the ownership or operations of any subsidiary of Holdings, other than Intermediate Holdings, CP Holdings LLC, Buyer, the Borrowers and/or their subsidiaries), Intermediate Holdings, CP Holdings LLC, Buyer, the Borrowers and their Restricted Subsidiaries;

(D) for the payment of insurance premiums to the extent attributable to Holdings (but excluding, for the avoidance of doubt, the portion of any such premiums, if any, attributable to the ownership or operations of any subsidiary of Holdings other than Intermediate Holdings, CP Holdings LLC, Buyer, the Borrowers and/or their subsidiaries), Holdings, Intermediate Holdings, CP Holdings LLC, Buyer, the Borrowers and their Restricted Subsidiaries; and

(E) to finance any Investment permitted under Section 6.6 (provided that (x) any Restricted Payment under this clause (a)(i)(E) shall be made substantially concurrently with the closing of such Investment and (y) the relevant Parent Company shall, promptly following the closing thereof, cause (I) all property acquired to be contributed to a Borrower or one or more of its Restricted Subsidiaries, or (II) the merger, consolidation or amalgamation of the Person formed or acquired into a Borrower or one or more of its Restricted Subsidiaries, in order to consummate such Investment in compliance with the applicable requirements of Section 6.6 as if undertaken as a direct Investment by the relevant Borrower or the relevant Restricted Subsidiary; provided further, any property received by a Borrower or any Restricted Subsidiary in connection with such transaction shall only increase the Available Amount to the extent the fair market value of such property (as determined in good faith by the Board of Directors of the applicable Borrower) exceeds the aggregate amount of Restricted Payments made pursuant to this clause (a)(i)(E);

(ii) the Borrowers may (or may make Restricted Payments to allow any Parent Company to) repurchase, redeem or otherwise acquire or retire for value the Capital Stock of any Parent Company or any subsidiary held by any future, present or former employee, director, member of management, officer or consultant (or any Affiliate or Immediate Family Member thereof) of any Parent Company, the Borrowers or any Restricted Subsidiary of the Borrowers:

(A) with cash and Cash Equivalents (and including, to the extent constituting a Restricted Payment, amounts paid in respect of promissory notes issued to evidence any obligation to repurchase, redeem, retire or otherwise acquire or retire for value the Capital Stock of any Parent Company or any Restricted Subsidiary held by any future, present or former employee, director, member of management, officer or consultant (or any Affiliate or Immediate Family Member thereof) of any Parent Company, the Borrowers or any Subsidiary of the Borrowers); provided, that at the time any such Restricted Payment is made and after giving pro forma effect thereto, the aggregate amount of Restricted Payments made as of such date pursuant to this Section 6.4(a)(ii)(A) shall not exceed $5,000,000;

(B) with the proceeds of any sale or issuance of the Capital Stock of a Borrower or any Parent Company (to the extent such proceeds are contributed in respect of Qualified Capital Stock to the relevant Borrower or any Restricted Subsidiary), but only to the extent such proceeds have not otherwise been applied to increase the Available Amount or Available Excluded Contribution Amount, to make Restricted Payments or Restricted Debt Payments hereunder; or

(C) with the net proceeds of any key-man life insurance policies;

(iii) the Borrowers may make additional Restricted Payments in an amount not to exceed (A) the portion, if any, of the Available Amount (excluding any Growth Amount) on such date that such Borrower elects to apply to this clause (iii)(A), and/or (B) the portion, if any, of the Available Excluded Contribution Amount on such date that the Borrowers elect to apply to this clause (iii)(B);

(iv) the Borrowers may make Restricted Payments (i) to any Parent Company to enable such Parent Company to make cash payments in lieu of the issuance of fractional shares in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Capital Stock of such Parent Company and (ii) consisting of (A) payments made or expected to be made in respect of withholding or similar Taxes payable by any future, present or former officers, directors, employees, members of management, managers or consultants of the Borrower, any Restricted Subsidiary or any Parent Company or any of their respective Immediate Family Members and/or (B) repurchases of Capital Stock in consideration of the payments described in sub-clause (A) above;

(v) the Borrowers may make Restricted Payments to repurchase (or make Restricted Payments to any Parent Company to enable it to repurchase) Capital Stock upon the exercise of warrants, options or other securities convertible into or exchangeable for Capital Stock if such Capital Stock represents all or a portion of the exercise price of such warrants, options or other securities convertible into or exchangeable for Capital Stock as part of a "cashless" exercise;

(vi) the Borrowers may make Restricted Payments, the proceeds of which are applied on the Closing Date, solely to effect the consummation of, the Transactions;

(vii) to the extent constituting a Restricted Payment, the Borrowers may consummate any transaction permitted by Section 6.6 (other than Sections 6.6(i) and (s)), Section 6.7 (other than Section 6.7(g)) and Section 6.8 (other than Section 6.8(d));

(viii) other Restricted Payments; provided that (x) no Event of Default has occurred and is continuing or would result therefrom and (y) at the time any such Restricted Payment is made and after giving pro forma effect thereto, the aggregate amount of Restricted Payments made as of such date pursuant to this Section 6.4(a)(viii) shall not exceed $5,000,000; and

(ix) any other Restricted Payment subject to compliance with the Payment Conditions.

(b) The Borrowers shall not, nor shall the Borrowers permit any Restricted Subsidiary to, make any payment in cash on or in respect of principal of or interest on any (x) Junior Lien Indebtedness, (y) Junior Indebtedness and (z) unsecured Indebtedness permitted hereunder (the Indebtedness described in clauses (x) through (z), the "Restricted Debt"), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any Restricted Debt prior to the scheduled maturity (collectively, "Restricted Debt Payments"), except:

(i) any purchase, defeasance, redemption, repurchase, repayment or other acquisition or retirement thereof made by exchange for, or out of the proceeds of, Refinancing Indebtedness permitted to be incurred pursuant to Section 6.1(m);

(ii) payments of regularly scheduled interest and payments of fees, expenses and indemnification obligations as and when due (other than payments with respect to Junior Indebtedness that are prohibited by the subordination provisions thereof);

(iii) (A) Restricted Debt Payments in exchange for, or with proceeds of any issuance of, Qualified Capital Stock of Holdings and/or any capital contribution in respect of Qualified Capital Stock of the Borrowers, but only to the extent such proceeds have not otherwise been applied to increase the Available Amount or the Available Excluded Contribution Amount, to make Restricted Payments or Restricted Debt Payments hereunder, (B) Restricted Debt Payments as a result of the conversion of all or any portion of any Restricted Debt into Qualified Capital Stock of the Borrowers or any Parent Company and (C) to the extent constituting a Restricted Debt Payment, payment-in-kind interest with respect to any Restricted Debt that is permitted under Section 6.1;

(iv) Restricted Debt Payments in an aggregate amount not to exceed (A) the portion, if any, of the Available Amount (excluding any Growth Amount) on such date that Borrowers elect to apply to this clause (iv)(A), and (B) the portion, if any, of the Available Excluded Contribution Amount on such date that Borrowers elect to apply to this clause (iv)(B);

(v) customary AHYDO Payments;

(vi) other Restricted Debt Payments; provided that (A) no Event of Default has occurred and is continuing or would result therefrom, and (B) at the time any such Restricted Debt Payment is made and after giving pro forma effect thereto, the aggregate amount of Restricted Debt Payments made as of date pursuant to this clause (vi) shall not exceed $5,000,000; and

(vii) any other Restricted Debt Payments subject to compliance with the Payment Conditions.

6.5 Restrictions on Subsidiary Distributions. Except as provided herein or in any other Loan Document, the Term Loan Facility Agreement, any document with respect to any Incremental Equivalent Debt, and/or in agreements with respect to refinancings, renewals or replacements of such Indebtedness that are permitted by Section 6.1, Holdings shall not, nor shall it permit any of its Restricted Subsidiaries to, enter into or cause to exist any agreement restricting the payment of dividends or other distributions or the making of cash loans or advances by any Restricted Subsidiary to any Loan Party, except restrictions:

(a) set forth in any agreement evidencing (i) Indebtedness of a Restricted Subsidiary that is not a Loan Party permitted by Section 6.1, (ii) Indebtedness permitted by Section 6.1 that is secured by a Permitted Lien if the relevant restriction applies only to the Person obligated under such Indebtedness and its Restricted Subsidiaries or the property or assets intended to secure such Indebtedness and (iii) Indebtedness permitted pursuant to clauses (j), (m) (as it relates to Indebtedness in respect of clauses (a), (j), (o), (q), (s) and/or (w) of Section 6.1), (n), (p), (r) and/or (w) of Section 6.1;

(b) arising under customary provisions restricting assignments, subletting or other transfers (including the granting of any Lien) contained in leases, subleases, licenses, sublicenses, joint venture agreements and similar agreements entered into in the ordinary course of business;

(c) that are or were created by virtue of any Lien granted upon, transfer of, agreement to transfer or grant of, any option or right with respect to any assets or Capital Stock not otherwise prohibited under this Agreement;

(d) that are assumed in connection with any acquisition of property or the Capital Stock of any Person, so long as the relevant encumbrance or restriction relates solely to the Person and its subsidiaries (including the Capital Stock of the relevant Person or Persons) and/or property so acquired and was not created in connection with or in anticipation of such acquisition;

(e) set forth in any agreement for any Disposition of any Restricted Subsidiary (or all or substantially all of the property and/or assets thereof) that restricts the payment of dividends or other distributions or the making of cash loans or advances by such Restricted Subsidiary pending such Disposition;

(f) set forth in provisions in agreements or instruments which prohibit the payment of dividends or the making of other distributions with respect to any class of Capital Stock of a Person other than on a pro rata basis;

(g) imposed by customary provisions in partnership agreements, limited liability company organizational governance documents, joint venture agreements and other similar agreements;

(h) on cash, other deposits or net worth or similar restrictions imposed by any Person under any contract entered into in the ordinary course of business or for whose benefit such cash, other deposits or net worth or similar restrictions exist;

(i) set forth in documents which exist on the Closing Date;

(j) arising pursuant to an agreement or instrument relating to any Indebtedness permitted to be incurred after the Closing Date if such restrictions, taken as a whole, are not materially less favorable to the Lenders than the restrictions contained in this Agreement, taken as a whole (as determined in good faith by the Borrower);

(k) arising under or as a result of applicable Requirements of Law or the terms of any license, authorization, concession or permit;

(l) arising in any Hedge Agreement and/or any agreement relating to any Bank Product Obligation;

(m) relating to any asset (or all of the assets) of and/or the Capital Stock of the Borrowers and/or any Restricted Subsidiary which is imposed pursuant to an agreement entered into in connection with any Disposition of such asset (or assets) and/or all or a portion of the Capital Stock of the relevant Person that is permitted or not restricted by this Agreement;

(n) set forth in any agreement relating to any Permitted Lien that limits the right of the Borrowers or any Restricted Subsidiary to Dispose of or encumber the assets subject thereto; and/or

(o) imposed by any amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing of any contract, instrument or obligation referred to in clauses (a) through (n) above; provided that such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing is, in the good faith judgment of the Borrower, no more restrictive with respect to such restrictions, taken as a whole, than those in existence prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

6 . 6 Investments. None of Holdings, Intermediate Holdings, Buyer, CP Holdings LLC, or the Borrowers shall, nor shall the Borrowers permit any Restricted Subsidiary to, make or own any Investment in any other Person except:

(a) cash or Investments that were Cash Equivalents at the time made;

(b) (i) Investments existing on the Closing Date in the Borrowers or in any Subsidiary, (ii) Investments made after the Closing Date among the Borrowers and/or one or more Restricted Subsidiaries that are Loan Parties, (iii) Investments made after the Closing Date by any Loan Party in Holdings, Intermediate Holdings, CP Holdings LLC, and/or any Restricted Subsidiary that is not a Loan Party, together with Permitted Acquisitions to the extent permitted by clause (b)(i) of the definition thereof and Investments made in reliance on Section 6.6(p), in an aggregate outstanding amount not to exceed the Non-Loan Party Investment Cap so long as the Payment Conditions have been satisfied, (iv) Investments made by any Restricted Subsidiary that is not a Loan Party in any Loan Party and/or any other Restricted Subsidiary that is not a Loan Party and (v) Investments made by any Loan Party and/or any Restricted Subsidiary that is not a Loan Party in the form of any contribution or Disposition of the Capital Stock of any Person that is not a Loan Party;

(c) Investments (i) constituting deposits, prepayments and/or other credits to suppliers, (ii) made in connection with obtaining, maintaining or renewing client and customer contracts and/or (iii) in the form of advances made to distributors, suppliers, licensors and licensees, in each case, in the ordinary course of business or to the extent necessary to maintain the ordinary course of supplies to Holdings or any Restricted Subsidiary;

(d) subject to satisfaction of the Payment Conditions, (i) Permitted Acquisitions and (ii) any Investment in any Restricted Subsidiary that is not a Loan Party in an amount required to permit such Restricted Subsidiary to consummate a Permitted Acquisition (in compliance, if applicable, with any cap on Investments in non-Loan Parties that is set forth in the relevant carve-out from this Section 6.6), which amount is actually applied by such Restricted Subsidiary to consummate such Permitted Acquisition.

(e) Investments (i) existing on, or contractually committed to as of, the Closing Date and described on Schedule 6.6 and (ii) any modification, replacement, renewal or extension of any Investment described in clause (i) above so long as no such modification, renewal or extension thereof increases the amount of such Investment except by the terms thereof or as otherwise permitted by this Section 6.6;

(f) Investments received in lieu of cash in connection with any Disposition permitted by Section 6.7;

(g) loans or advances to present or former employees, directors, members of management, officers, managers or consultants or independent contractors (or their respective Immediate Family Members) of any Parent Company, any of its subsidiaries and/or any joint venture to the extent permitted by Requirements of Law, in connection with such Person's purchase of Capital Stock of any Parent Company, either (i) in an aggregate principal amount not to exceed at any one time outstanding the greater of $5,000,000 and 6% of Consolidated Adjusted EBITDA for the most recently ended Test Period or (ii) so long as the proceeds of such loan or advance are substantially contemporaneously contributed to the relevant Borrower for the purchase of Capital Stock;

(h) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business;

(i) Investments consisting of (or resulting from) Indebtedness permitted under Section 6.1 (other than Indebtedness permitted under Sections 6.1(b) and (g)), Permitted Liens, Restricted Payments permitted under Section 6.4 (other than Section 6.4(a)(vii)), Restricted Debt Payments permitted by Section 6.4 and mergers, consolidations, amalgamations, liquidations, windings up, dissolutions or Dispositions permitted by Section 6.7 (other than Section 6.7(a) (if made in reliance on sub-clause (ii)(y) of the proviso thereto), Section 6.7(b) (if made in reliance on clause (ii) therein), Section 6.7(c)(ii) (if made in reliance on clause (B) therein) and Section 6.7(g));

(j) Investments in the ordinary course of business consisting of endorsements for collection or deposit and customary trade arrangements with customers;

(k) Investments (including debt obligations and Capital Stock) received (i) in connection with the bankruptcy, restructuring or reorganization of any Person, (ii) in settlement of delinquent obligations of, or other disputes with, customers, suppliers and other account debtors arising in the ordinary course of business, (iii) upon foreclosure with respect to any secured Investment or other transfer of title with respect to any secured Investment and/or (iv) as a result of the settlement, compromise, resolution of litigation, arbitration or other disputes;

(l) loans and advances of (x) payroll payments or other compensation and (y) moving, entertainment and travel expenses, drawing accounts and similar expenditures, in each case under this clause (l) to present or former employees, directors, members of management, officers, managers or consultants of any Parent Company (to the extent such payments or other compensation relate to services provided to such Parent Company (but excluding, for the avoidance of doubt, the portion of any such amount, if any, attributable to the ownership or operations of any subsidiary of any Parent Company other than the Borrowers and/or their subsidiaries)), the Borrowers and/or any subsidiary of the Borrowers in the ordinary course of business;

(m) Investments to the extent that payment therefor is made solely with Capital Stock of any Parent Company or Qualified Capital Stock of the Borrowers or any Restricted Subsidiary, in each case, to the extent not resulting in a Change of Control;

(n) (i) Investments of any Restricted Subsidiary acquired after the Closing Date, or of any Person acquired by, or merged into or consolidated or amalgamated with, Holdings or any Restricted Subsidiary after the Closing Date, in each case as part of an Investment otherwise permitted by this Section 6.6 to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger, amalgamation or consolidation and were in existence on the date of the relevant acquisition, merger, amalgamation or consolidation and (ii) any modification, replacement, renewal or extension of any Investment permitted under clause (i) of this Section 6.6(n) so long as no such modification, replacement, renewal or extension thereof increases the amount of such Investment except as otherwise permitted by this Section 6.6;

(o) Investments made in connection with the Transactions;

(p) Investments made after the Closing Date by the Borrowers and/or any of their Restricted Subsidiaries in an aggregate amount at any time outstanding not to exceed, together with Investments made in reliance on Section 6.6(b)(iii) and Permitted Acquisitions to the extent permitted by clause (b)(i) of the definition thereof, the greater of $20,000,000 and twenty-five percent (25%) of Consolidated Adjusted EBITDA for the most recently ended Test Period;

(q) Investments made after the Closing Date by the Borrowers and/or any of their Restricted Subsidiaries in an aggregate outstanding amount not to exceed (i) the portion, if any, of the Available Amount (excluding any Growth Amount) on such date that such Borrower elects to apply to this clause (q)(i); provided that no Specified Event of Default has occurred and is continuing or would result therefrom, and (ii) the portion, if any, of the Available Excluded Contribution Amount on such date that such Borrower elects to apply to this clause (q)(ii);

(r) to the extent not constituting Indebtedness, (i) Guarantees of leases (other than Capital Leases) or of other obligations and (ii) Guarantees of the lease obligations of suppliers, customers, franchisees and licensees of the Borrowers and/or their Restricted Subsidiaries, in each case, in the ordinary course of business;

(s) Investments in any Parent Company in amounts and for purposes for which Restricted Payments to such Parent Company are permitted under Section 6.4(a); provided that any Investment made as provided above in lieu of any such Restricted Payment shall reduce availability under the applicable Restricted Payment basket under Section 6.4(a);

(t) Investments under any Derivative Transaction of the type permitted under Section 6.1(v);

(u) Investments (i) in joint ventures and Unrestricted Subsidiaries, or (ii) in any Restricted Subsidiary to enable such Restricted Subsidiary to make Investments in joint ventures and Unrestricted Subsidiaries, or (iii) in joint ventures or non-Wholly-Owned Subsidiaries as required by, or made pursuant to, customary buy/sell arrangements between the joint venture parties set forth in joint venture agreements and similar binding arrangements entered into in the ordinary course of business, in the cases of this clause (u), an aggregate outstanding amount not to exceed $5,000,000; provided that no Specified Event of Default has occurred and is continuing or would result from any such Investment pursuant to this clause (u);

(v) unfunded pension fund and other employee benefit plan obligations and liabilities to the extent that the same are permitted to remain unfunded under applicable Requirements of Law;

(w) Investments in Holdings, Intermediate Holdings, CP Holdings LLC, the Borrowers any subsidiary and/or any joint venture in connection with intercompany cash management arrangements and related activities in the ordinary course of business; and

(x) any other Investments (other than Permitted Acquisitions) subject to satisfaction of the Payment Conditions.

6.7 Fundamental Changes; Disposition of Assets. The Borrowers shall not, nor shall the Borrowers permit any of their Restricted Subsidiaries to, enter into any transaction of merger, consolidation or amalgamation or liquidate, wind up or dissolve themselves (or suffer any liquidation or dissolution), or make any Disposition of any assets having a fair market value in excess of $2,500,000, in a single transaction or in a series of related transactions, except:

(a) any Restricted Subsidiary may be merged, consolidated or amalgamated with or into a Borrower or another Restricted Subsidiary; provided that (i) in the case of any such merger, consolidation or amalgamation with or into a Borrower, (A) a Borrower shall be the continuing or surviving Person or (B) if the Person formed by or surviving any such merger, consolidation or amalgamation is not a Borrower (any such Person, the "Successor Borrower"), (w) the Successor Borrower shall provide the documentation and other information reasonably requested in writing by the Lenders that they reasonably determine is required by regulatory authorities under applicable "know your customer" and anti-money-laundering rules and regulations, including the PATRIOT Act, and including, with respect to any Successor Borrower that qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, a Beneficial Ownership Certification in relation to such Borrower, in each case at least three Business Days prior to the effectiveness of such merger, consolidation or amalgamation (or such shorter period as Agent shall otherwise agree), (x)(1) in the case of a US Borrower, the Successor Borrower shall be an entity organized or existing under the laws of the U.S., any state thereof or the District of Columbia, and (2) in the case of a UK Borrower, the Successor Borrower shall be an entity organized or existing under the laws of England and Wales, (y) the Successor Borrower shall expressly assume the Obligations of the applicable Borrower in a manner reasonably satisfactory to Agent and (z) except as Agent may otherwise agree, each Guarantor, unless it is the other party to such merger, consolidation or amalgamation, shall have executed and delivered a reaffirmation agreement with respect to its obligations under the Loan Documents; it being understood that if the foregoing conditions under clauses (w) through (z) are satisfied, the Successor Borrower will succeed to, and be substituted for, such Borrower under this Agreement and the other Loan Documents, and (ii) in the case of any such merger, consolidation or amalgamation with or into any Subsidiary Guarantor or sale of assets by any Subsidiary Guarantor, either (x) such Subsidiary Guarantor shall be the continuing or surviving Person or the continuing or surviving Person shall expressly assume the obligations of the Subsidiary Guarantor in a manner reasonably satisfactory to the Agent or (y) the relevant transaction shall be treated as an Investment and shall comply with Section 6.6;

(b) Dispositions (including of Capital Stock) among the Borrowers and/or any Restricted Subsidiary (upon voluntary liquidation or otherwise); provided that any such Disposition made by any Loan Party to a Person that is not a Loan Party shall be (i) for fair market value (as reasonably determined by such Person) with at least 75% of the consideration for such Disposition consisting of cash or Cash Equivalents at the time of such Disposition or (ii) treated as an Investment and otherwise made in compliance with Section 6.6 (other than in reliance on clause (i) thereof);

(c) (i) the liquidation or dissolution of any Restricted Subsidiary if Holdings reasonably determines in good faith that such liquidation, dissolution is in the best interests of Holdings, is not materially disadvantageous to the Lenders and Holdings or any Restricted Subsidiary receives any assets of the relevant dissolved or liquidated Restricted Subsidiary; provided that in the case of any liquidation or dissolution of any Loan Party that results in a distribution of assets to any Restricted Subsidiary that is not a Loan Party, such distribution shall be treated as an Investment and shall comply with Section 6.6 (other than in reliance on clause (i) thereof); (ii) any merger, amalgamation, dissolution, liquidation or consolidation, the purpose of which is to effect (A) any Disposition otherwise permitted under this Section 6.7 (other than clause (a), clause (b) or this clause (c)) or (B) any Investment permitted under Section 6.6 (other than in reliance on clause (i) thereof); and (iii) the conversion of a Borrower or any Restricted Subsidiary into another form of entity so long as such conversion does not adversely affect the value of the Guaranty (as defined in the US Guaranty and Security Agreement) or Collateral, if any;

(d) the leasing or subleasing of real property in the ordinary course of business;

(e) Dispositions in the ordinary course of business of surplus, obsolete, used or worn out property or other property that, in the reasonable judgment of Holdings, is (i) no longer used or useful in its business (or in the business of any Restricted Subsidiary) or (ii) otherwise economically impracticable to maintain;

(f) Dispositions of cash and/or Cash Equivalents and/or other assets that were Cash Equivalents when the relevant original Investment was made;

(g) Dispositions, mergers, amalgamations, consolidations or conveyances that constitute Investments permitted pursuant to Section 6.6 (other than Section 6.6(i), Permitted Liens and Restricted Payments permitted by Section 6.4(a) (other than Section 6.4(a)(vii));

(h) Dispositions for fair market value (as determined in good faith by the Borrower); provided that with respect to any such Disposition with a purchase price in excess of the greater of $10,000,000 and 12.5% of Consolidated Adjusted EBITDA for the most recently ended Test Period, at least 75% of the consideration for such Disposition shall consist of cash or Cash Equivalents (provided that for purposes of the 75% cash consideration requirement, (x) the amount of any Indebtedness or other liabilities (other than Indebtedness or other liabilities that are subordinated to the Obligations or that are owed to the Holdings or any Restricted Subsidiary) of Holdings and any Restricted Subsidiary (as shown on such Person's most recent balance sheet or statement of financial position (or in the notes thereto)) that are assumed by the transferee of any such assets and for which Holdings and/or its applicable Restricted Subsidiary have been validly released by all relevant creditors in writing, (y) any securities received by Holdings or any Restricted Subsidiary from such transferee that are converted by such Person into cash or Cash Equivalents (to the extent of cash or Cash Equivalents received) within 180 days following the closing of the applicable Disposition and (z) any Designated Non-Cash Consideration received in respect of such Disposition having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this clause (z) that is at that time outstanding not in excess of the greater of $20,000,000 and 25.0% of Consolidated Adjusted EBITDA for the most recently ended Test Period shall be deemed to be cash); provided, further, that immediately prior to and after giving effect to such Disposition, as determined on the date on which the agreement governing such Disposition is executed, no Event of Default exists;

(i) to the extent that (i) the relevant property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of the relevant Disposition are promptly applied to the purchase price of such replacement property;

(j) Dispositions of Investments in joint ventures or any subsidiary that is not a Wholly-Owned Subsidiary to the extent required by, or made pursuant to, buy/sell arrangements between joint venture or similar parties set forth in the relevant joint venture arrangements and/or similar binding arrangements;

(k) Dispositions of accounts receivable or in connection with the collection or compromise thereof (including any discounting or forgiveness thereof) in the ordinary course of business;

(l) Dispositions and/or terminations of leases, subleases, licenses or sublicenses (including the provision of software under any open source license), which do not materially interfere with the business of the Borrowers and its Restricted Subsidiaries;

(m) (i) any termination of any lease in the ordinary course of business, (ii) any expiration of any option agreement in respect of real or personal property and (iii) any surrender or waiver of contractual rights or the settlement, release or surrender of contractual rights or litigation claims (including in tort);

(n) Dispositions of property subject to foreclosure, casualty, eminent domain or condemnation proceedings (including in lieu thereof or any similar proceeding);

(o) [reserved];

(p) exchanges or swaps, including transactions covered by Section 1031 of the IRC (or any comparable provision of any foreign jurisdiction), of assets so long as any such exchange or swap is made for fair value (as reasonably determined by the Borrower) for like assets; provided that upon the consummation of any such exchange or swap by any Loan Party, to the extent the assets received do not constitute an Excluded Asset, the Agent has a perfected Lien with the same priority as the Lien held on the Real Estate Assets so exchanged or swapped;

(q) other Dispositions; provided that the aggregate for fair market value (as determined in good faith by Holdings) of all assets subject to such Dispositions since the Closing Date shall not exceed $10,000,000;

(r) (i) non-exclusive licensing arrangements involving any IP Rights of the Borrowers or any Restricted Subsidiary in the ordinary course of business and (ii) Dispositions, abandonments, cancellations or lapses of IP Rights, or issuances or registrations, or applications for issuances or registrations, of IP Rights, in the ordinary course of business, which, in the reasonable good faith determination of the relevant Borrower, are no longer used, useful or economical to maintain in light of its use;

(s) terminations or unwinds of Derivative Transactions;

(t) Dispositions of Capital Stock of, or sales of Indebtedness or other securities of, Unrestricted Subsidiaries;

(u) any merger, consolidation, Disposition or conveyance the sole purpose of which is to reincorporate or reorganize (i) any Domestic Subsidiary in another jurisdiction in the U.S. and/or (ii) any Foreign Subsidiary in the U.S. or any other jurisdiction;

(v) Dispositions contemplated on the Closing Date and described on Schedule 6.7(v);

(w) Dispositions of letters of credit and/or bank guarantees (and/or the rights thereunder) to banks or other financial institutions in the ordinary course of business in exchange for cash and/or Cash Equivalents; and

(x) Sale and Lease-Back Transactions so long as the aggregate fair market value (as determined in good faith by Borrowers) of the assets sold subject to all Sale and Lease-Back Transactions under this clause (x) shall not exceed (i) with respect to assets in the United Kingdom, the greater of $2,000,000 and two and one-half percent (2.50%) of Consolidated Adjusted EBITDA for the most recently ended Test Period in the aggregate and (ii) with respect to assets in jurisdictions other than the United Kingdom, $10,000,000; provided, that the Net Proceeds of such Sale and Lease-Back Transaction subject to this clause (ii) shall be applied pursuant to Section 2.08(b)(ii) of the Term Loan Facility Agreement (it being understood that any Net Proceeds so received shall not be permitted to be reinvested pursuant to such Section);

provided, that if, as of any date of determination, sales or Dispositions by the Loan Parties of ABL Priority Collateral and/or UK Collateral during the period of time from the first day of the month in which such date of determination occurs until such date of determination, either individually or in the aggregate, involve $2,500,000 or more of assets included in the Borrowing Base (based on the fair market value of the assets so Disposed, determined in good faith by the Administrative Borrower) (the "Disposition Threshold Amount"), then Borrowers shall have, prior to consummation of the sale or Disposition that causes the assets included in the Borrowing Base that are sold or Disposed of during such period to exceed the Disposition Threshold Amount, delivered to Agent an updated Borrowing Base Certificate that reflects the removal of the applicable assets from the Borrowing Base; and provided further that such sales or Dispositions by the Loan Parties of ABL Priority Collateral and/or UK Collateral shall not result in an overadvance requiring repayment of the Obligations under Section 2.4(e)(i).

To the extent any Collateral is Disposed of as expressly permitted by this Section 6.7 to any Person other than a Loan Party, such Collateral shall automatically be sold free and clear of the Liens created by the Loan Documents, and Agent and/or UK Security Agent shall be authorized to take, and shall take, any actions deemed appropriate in order to effect the foregoing. Notwithstanding anything herein to the contrary, no Borrower shall itself enter into any division or allocation of assets to a series of limited liability companies under any applicable law.

6.8 **Transactions with Affiliates**. Holdings shall not, nor shall it permit any of its Restricted Subsidiaries to, enter into any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) involving payment in excess of $5,000,000 with any of their respective Affiliates on terms that are less favorable to Holdings or such Restricted Subsidiary, as the case may be (as reasonably determined by Holdings), than those that might be obtained at the time in a comparable arm's-length transaction from a Person who is not an Affiliate; provided that the foregoing restriction shall not apply to:

(a) any transaction between or among Holdings and/or one or more Restricted Subsidiaries (or any entity that becomes a Restricted Subsidiary as a result of such transaction) to the extent permitted or not restricted by this Agreement;

(b) any issuance, sale or grant of securities or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of employment arrangements, stock options and stock ownership plans approved by the Board of Directors (or equivalent governing body) of any Parent Company or of Holdings or any Restricted Subsidiary;

(c) (i) any collective bargaining agreement, employment agreement, severance agreement or compensatory (including profit sharing) arrangement entered into by the Borrowers or any of their Restricted Subsidiaries with their respective current or former officers, directors, members of management, managers, employees, consultants or independent contractors or those of any Parent Company, (ii) any subscription agreement or similar agreement pertaining to the repurchase of Capital Stock pursuant to put/call rights or similar rights with current or former officers, directors, members of management, managers, employees, consultants or independent contractors and (iii) transactions pursuant to any employee compensation, benefit plan, stock option plan or arrangement, any health, disability or similar insurance plan which covers current or former officers, directors, members of management, managers, employees, consultants or independent contractors or any employment contract or arrangement;

(d) (i) transactions permitted by Sections 6.1(c), (l) and (u), 6.4 and 6.6(g), (l), (n), (p) and (u) (to the extent the relevant transaction is an Investment of the type described in Section 6.6(g)), (s), (u), (w) and (v) and (ii) issuances of Capital Stock and issuances or incurrences of Indebtedness not restricted by this Agreement;

(e) transactions in existence on the Closing Date and described on Schedule 6.8 and any amendment, modification or extension thereof to the extent such amendment, modification or extension, taken as a whole, is not adverse to the Lenders in any material respect;

(f) the payment of all indemnification obligations and expenses owed to any Management Equityholder and any of their respective directors, officers, members of management, managers, employees and consultants whether currently due or paid in respect of accruals from prior periods;

(g) the Transactions, including the payment of Transaction Costs and other payments required under the Concrete Pumping Acquisition Agreement;

(h) Guarantees permitted by Section 6.1 or Section 6.6;

(i) the payment of customary fees and reasonable out-of-pocket costs to, and indemnities provided on behalf of, former and current members of the Board of Directors (or similar governing body), officers, employees, members of management, managers, consultants and independent contractors of Holdings and/or any of its Restricted Subsidiaries and, in the case of payments to such Person in such capacity on behalf of any Parent Company, to the extent attributable to the operations of Holdings, Intermediate Holdings, CP Holdings LLC, Buyer, any Borrower or its Subsidiaries;

(j) transactions with customers, clients, suppliers, joint ventures, purchasers or sellers of goods or services or providers of employees or other labor entered into in the ordinary course of business, which are (i) fair to the applicable Borrower and/or its applicable Restricted Subsidiaries in the good faith determination of the Board of Directors (or similar governing body) of the applicable Borrower or the senior management thereof or (ii) on terms at least as favorable to the applicable Borrower and/or its applicable Restricted Subsidiary as might reasonably be obtained from a Person other than an Affiliate;

(k) the payment of reasonable out-of-pocket costs and expenses related to registration rights and customary indemnities provided to shareholders under any shareholder agreement;

(l) any purchase by Holdings or Intermediate Holdings of the Capital Stock of (or contribution to the equity capital of) Target;

(m) any transaction in respect of which Holdings delivers to Agent a letter addressed to the Board of Directors (or equivalent governing body) of Holdings from an accounting, appraisal or investment banking firm of nationally recognized standing stating that such transaction is on terms that are no less favorable to the applicable Borrower or the applicable Restricted Subsidiary than might be obtained at the time in a comparable arm's length transaction from a Person who is not an Affiliate; and

(n) any issuance, sale or grant of Qualified Capital Stock or other payments, awards or grants in cash, Qualified Capital Stock or otherwise pursuant to, or the funding of employment arrangements, stock options and stock ownership plans approved by a majority of the members of the Board of Directors (or similar governing body) or a majority of the disinterested members of the Board of Directors (or similar governing body) of the applicable Borrower or the applicable Restricted Subsidiary in good faith; and

(o) payments of Sponsor Fees; provided that if an Event of Default under Section 8.1(a) or, with respect to the Borrowers, Section 8.1(g), has occurred and is continuing, any Sponsor Fee payable in cash or Cash Equivalents thereunder shall accrue but shall not be paid until such Event of Default is cured or waived.

6.9 **Amendments or Waivers of Governing Documents**. Holdings shall not, nor shall it permit any Guarantor to, amend or modify their respective Governing Documents, in each case in a manner that is materially adverse to the Lenders (in their capacities as such) without obtaining the prior written consent of Agent.

6.10 **Amendments of or Waivers with Respect to Restricted Debt**. Holdings shall not, nor shall it permit any of its Restricted Subsidiaries to, amend or otherwise modify the terms of any Restricted Debt (or the documentation governing any Restricted Debt) (a) if the effect of such amendment or modification, together with all other amendments or modifications made, is materially adverse to the interests of the Lenders (in their capacities as such) or (b) in violation of any intercreditor agreement related to such Restricted Debt entered into with Agent or the subordination terms set forth in the definitive documentation governing any Restricted Debt.

6.11 **Permitted Activities of Holdings, Intermediate Holdings, and Buyer**. None of Holdings, Intermediate Holdings, or Buyer shall:

(a) incur any Indebtedness for borrowed money other than the Obligations and other Guarantees of Indebtedness or other obligations of the Borrowers and/or any Restricted Subsidiary that are otherwise permitted hereunder;

(b) create or suffer to exist any Lien on any asset now owned or hereafter acquired by it other than (i) the Liens created under the Security Documents and, subject to an Acceptable Intercreditor Agreement, the collateral documents related to the Term Loan Facility Agreement, to which it is a party, (ii) any other Lien created in connection with the Transactions, (iii) Permitted Liens on the Collateral that are secured on a pari passu or junior basis with the Obligations, so long as such Permitted Liens secure Guarantees permitted under clause (a) above and the underlying Indebtedness subject to such Guarantee is permitted to be secured to the extent permitted pursuant to Section 6.2 and (iv) Liens of the type permitted under Section 6.2 (other than in respect of debt for borrowed money);

(c) engage in any business activity or own any material assets other than (i) holding the Capital Stock of any of its direct or indirect Subsidiaries; (ii) performing its obligations under the Loan Documents, the Term Loan Facility Agreement, other Indebtedness, Liens (including the granting of Liens) and Guarantees permitted hereunder; (iii) any grants, issuances, repurchases or withholdings by Holdings of its own Capital Stock (including, the making of any dividend or distribution on account of, or any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value of, any shares of any class of Capital Stock), stock options, stock appreciation rights, restricted stock, restricted stock units, other stock-based awards and performance awards pursuant to any equity incentive plans of Holdings; (iv) filing Tax reports and paying Taxes and other customary obligations in the ordinary course (and contesting any Taxes); (v) preparing reports to Governmental Authorities and to its shareholders; (vi) holding director and shareholder meetings, preparing organizational records and other organizational activities required to maintain its separate organizational structure or to comply with applicable Requirements of Law; (vii) effecting any public offering of its Capital Stock and/or any transaction in connection therewith; (viii) holding cash, Cash Equivalents and other assets received in connection with Restricted Payments received from, or Investments made by, the Borrowers and/or any Restricted Subsidiary or any of their direct or indirect subsidiaries or contributions to the capital of, or proceeds from the issuance of, Capital Stock of Holdings, in each case, pending the application thereof; (ix) providing indemnification and expense reimbursement for its officers, directors, members of management, managers, employees and advisors or consultants; (x) participating in tax, accounting and other administrative matters; (xi) making payments of the type permitted under Section 6.8(f) and the performance of its obligations under the Concrete Pumping Acquisition Agreement and any other document, agreement and/or Investment contemplated by the Transactions and other transactions expressly contemplated under this Agreement; (xii) complying with applicable Requirements of Law (including with respect to the maintenance of its existence); (xiii) performance of rights and obligations under the Sponsor Management Agreement to which it is a party, and (xiv) activities incidental to any of the foregoing or effecting any transaction permitted under this Agreement, including, without limitation, the Transactions; and

(d) consolidate or amalgamate with, or merge with or into, or convey, sell or otherwise transfer all or substantially all of its assets to, any Person; provided that, so long as no Event of Default exists or would result therefrom, (i) Holdings, Intermediate Holdings, and/or Buyer may consolidate or amalgamate with, or merge with or into, any other Person (other than the Borrowers or any of its Restricted Subsidiaries) so long as (A) Holdings, Intermediate Holdings, and/or Buyer, as applicable, is the continuing or surviving Person or (B) if the Person formed by or surviving any such consolidation, amalgamation or merger is not Holdings, Intermediate Holdings, and/or Buyer, as applicable, (1) the successor Person (such successor Person, "Successor Holdings", "Successor Intermediate Holdings", and/or "Successor Buyer", as applicable) expressly assumes all obligations of Holdings, Intermediate Holdings, and/or Buyer, as applicable, under this Agreement and the other Loan Documents to which Holdings, Intermediate Holdings, and/or Buyer, as applicable, is a party pursuant to a supplement hereto and/or thereto in a form reasonably satisfactory to the Agent, (2) Successor Holdings, Successor Intermediate Holdings, and/or Successor Buyer, as applicable, shall provide the documentation and other information reasonably requested in writing by the Lenders that they reasonably determine is required by regulatory authorities under applicable "know your customer" and anti-money-laundering rules and regulations, including the PATRIOT Act, in each case at least three Business Days prior to the effectiveness of such merger, consolidation or amalgamation (or such shorter period as the Agent shall otherwise agree), (3) Successor Holdings, Successor Intermediate Holdings, and/or Successor Buyer, as applicable, shall be an entity organized or existing under the laws of the U.S., any state thereof or the District of Columbia, and (4) the US Administrative Borrower delivers a certificate of a Responsible Officer with respect to the satisfaction of the conditions set forth in clause (1) of this clause (B) and (ii) Holdings, Intermediate Holdings, and/or Buyer, as applicable, may otherwise convey, sell or otherwise transfer all or substantially all of its assets to any other Person (other than the Borrowers and any of their respective Subsidiaries) so long as (A) no Change of Control results therefrom, (B) the Person acquiring such assets expressly assumes all of the obligations of Holdings, Intermediate Holdings, and/or Buyer, as applicable, under this Agreement and the other Loan Documents to which Holdings, Intermediate Holdings, and/or Buyer, as applicable, is a party pursuant to a supplement hereto and/or thereto in a form reasonably satisfactory to the Agent and (C) the US Administrative Borrower delivers a certificate of a Responsible Officer with respect to the satisfaction of the conditions under clause (A) set forth in this clause (ii); provided, further, that (x) if the conditions set forth in the preceding proviso are satisfied, Successor Holdings, Successor Intermediate Holdings, and/or Successor Buyer, as applicable, will succeed to, and be substituted for, Holdings, Intermediate Holdings, and/or Buyer, as applicable, under this Agreement and (y) it is understood and agreed that Holdings, Intermediate Holdings, and/or Buyer, as applicable, may convert into another form of entity so long as such conversion does not adversely affect the value of the Guaranty (as defined in the US Guaranty and Security Agreement) or the Collateral.

6.12 **Use of Proceeds.** Holdings, Intermediate Holdings, CP Holdings LLC, and each Borrower will not, and will not permit any of its Subsidiaries to use the proceeds of any Loan or Letter of Credit made or issued hereunder for any purpose other than to: (a) (i) with respect to Loans made on the Closing Date, to finance the Transactions or for other working capital purposes and to fund OID or upfront fees required to be funded under the Term Flex Provisions (as defined in the Commitment Letter), and (ii) with respect to Letters of Credit issued on the Closing Date, to backstop or replace letters of credit outstanding on the Closing Date under facilities no longer available to the Borrowers and its Subsidiaries as of the Closing Date after giving effect to the transactions contemplated hereby; and (b) with respect to Loans made, and Letters of Credit issued, after the Closing Date, to fund working capital and for the general corporate purposes of Borrowers and their Subsidiaries and for any other purpose consistent with the terms and conditions hereof, including to finance Permitted Acquisitions and other Permitted Investments; provided that (x) no part of the proceeds of the Loans 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 the provisions of Regulation T, U or X of the Board of Governors, (y) no part of the proceeds of any Loan or Letter of Credit will be used, directly or indirectly, to make any payments to a Sanctioned Entity or a Sanctioned Person, to fund any investments, loans or contributions in, or otherwise make such proceeds available to, a Sanctioned Entity or a Sanctioned Person, to fund any operations, activities or business of a Sanctioned Entity or a Sanctioned Person, or in any other manner that would result in a violation of Sanctions by any Person, and (z) that no part of the proceeds of any Loan or Letter of Credit will be used, directly or indirectly, in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Sanctions, Anti-Corruption Laws or Anti-Money Laundering Laws.

6.13 **Conduct of Business**. From and after the Closing Date, (i) neither Holdings, Intermediate Holdings, CP Holdings LLC, nor the Borrowers shall change its Fiscal Year-end to a date other than on or about October 31 and (ii) Holdings shall not, nor shall it permit any of its Restricted Subsidiaries to, engage in any material line of business other than (a) the businesses engaged in by the Borrowers or any of their Restricted Subsidiaries on the Closing Date and similar, complementary, ancillary or related businesses and (b) such other lines of business as may be consented to by the Required Lenders.

6.14 **UK Pension Plans**.

(a) No Borrower shall permit pension schemes operated by or maintained for the benefit of the UK Loan Parties and/or any of their employees to be less than fully funded based on the statutory funding objective under sections 221 and 222 of the Pensions Act 2004 (UK) or take any action or omission by any company in relation to such a pension scheme which has or is reasonably likely to have a Material Adverse Effect (including the termination or commencement of winding-up proceedings of any such pension scheme or any English company ceasing to employ any member of such a pension scheme).

(b) No Borrower shall permit any UK Loan Party to be at any time an employer (for the purposes of sections 38 to 51 of the Pensions Act 2004 (UK)) of an occupational pension scheme which is not a money purchase scheme (both terms as defined in the Pension Schemes Act 1993) or "connected" with or an "associate" of (as those terms are defined in sections 38 or 43 of the Pensions Act 2004) such an employer.

(c) No Borrower shall permit any UK Borrower to request or take the benefit of any pension contribution holiday in respect of any occupational pension scheme which is not a money purchase scheme (both terms as defined in the Pension Schemes Act 1993 (UK)).

(d) Each Borrower shall deliver to Agent: (i) at such times as those reports are prepared in order to comply with the then current statutory or auditing requirements (as applicable either to the trustees of any relevant schemes or to the UK Loan Party); and (ii) at any other time if Agent reasonably believes that any relevant statutory or auditing requirements are not being complied with, actuarial reports in relation to all pension schemes mentioned in clause (a) above.

(e) Each Borrower shall promptly notify Agent of any material change in the rate of contributions to any pension scheme mentioned in clause (a) above paid or recommended to be paid (whether by the scheme actuary or otherwise) or required (by law or otherwise).

6.15 **Repayment.** No Borrower shall fund any repayment of any Loan or Letter of Credit with proceeds derived from a transaction prohibited by any Anti-Corruption Law, Anti-Money Laundering Law or Sanction or in any manner that would cause any party hereto to be in breach of any Anti-Corruption Law, Anti-Money Laundering Law or Sanction.

7. FINANCIAL COVENANT.

While a Compliance Period is in effect, each of Holdings and each Borrower covenants and agrees that, until termination of all of the Commitments and payment in full of the Obligations, Holdings and its Restricted Subsidiaries will have a Fixed Charge Coverage Ratio for the trailing twelve-month period of at least 1.00:1.00 measured (a) as of the first day of such Compliance Period and (ii) thereafter, at the end of each fiscal quarter during such Compliance Period for which financial statements under Section 5.1(a) or (b) were, or were required to be, delivered hereunder.

8. EVENTS OF DEFAULT

8.1 **Events of Default**. If any of the following events (each, an "Event of Default") shall occur:

(a) Failure To Make Payments When Due. Failure by a Borrower to pay (i) any installment of principal of any Loan or any amount payable to Issuing Bank in reimbursement of any drawing under a Letter of Credit when due, 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) Business Days after the date due; or

(b) Default in Other Agreements. (i) Failure by any Loan Party or any of its Restricted 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 clause (a) above) with an aggregate outstanding principal amount exceeding the Threshold Amount; or (ii) breach or default by any Loan Party or any of its Restricted Subsidiaries with respect to any other term of such Indebtedness described under the foregoing clause (i) (other than Indebtedness under the Term Loan Facility Agreement) pursuant to any loan agreement, mortgage, indenture or other agreement relating to such item(s) of Indebtedness (other than, for the avoidance of doubt, with respect to Indebtedness consisting of Hedge Obligations, termination events or equivalent events pursuant to the terms of the relevant Hedge Agreement which are not the result of any default thereunder by any Loan Party or any Restricted Subsidiary), in each case under the foregoing clauses (i) and (ii), beyond the grace period, if any, provided therefor, if the effect of such breach or default is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause, such Indebtedness to become or to be declared due and payable (or redeemable) or require that an offer to repurchase, prepay, defease or redeem such Indebtedness be made prior to its stated maturity or the stated maturity of any underlying obligation, as the case may be; provided that clause (ii) of this paragraph (b) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property securing such Indebtedness if such sale or transfer is permitted hereunder; provided, further, that any failure under clauses (i) or (ii) above is unremedied and is not waived by the holders of such Indebtedness prior to any termination of the Commitments or acceleration of the Loans pursuant to Article 7. A breach or default by any Loan Party with respect to the Term Loan Facility Agreement or with respect to the Term Loan Facility will constitute an Event of Default hereunder; or

(c) Breach of Certain Covenants. Failure of any of Holdings, Intermediate Holdings, CP Holdings LLC, or any other Loan Party, as required by the relevant provision, to perform or comply with any term or condition contained in Section 5.1(c) (solely if any Borrower has failed to deliver a Compliance Certificate as prescribed thereby), Section 5.1(e)(i) (provided that delivery of any notice of default required to be delivered therein at any time will cure any Event of Default arising from the failure to timely deliver such notice), Section 5.2 (solely if any Borrower has failed to deliver a Borrowing Base Certificate within three (3) Business Days of the date as prescribed thereby (or one (1) Business Day if such breach is during a U.S. Cash Dominion Period); provided that, the Borrowers shall not be permitted to request, and the Lender shall have no obligation to advance, any Borrowing during such three (3) Business Days' (or one (1) Business Day's, as applicable) grace period), Section 5.3 (with respect to the preservation of the legal existence of the Borrowers), Article 6 or Article 7 or Section 7 of the US Guaranty and Security Agreement; or

(d) Breach of Representations, Etc. (i) Any representation, warranty or certification made or deemed to be made by any of Holdings, Intermediate Holdings, CP Holdings LLC, or any other Loan Party in any Borrowing Base Certificate delivered to the Agent pursuant hereto shall prove to be untrue in any material respect as of the date made or deemed to be made; and (ii) any representation, warranty or certification (other than any representation, warranty or certification set forth in the Borrowing Base Certificate) made or deemed made by any Holdings, Intermediate Holdings, CP Holdings LLC, or any Loan Party in any Loan Document or in any certificate required to be delivered in connection herewith or therewith (including, for the avoidance of doubt, any Perfection Certificate and any Perfection Certificate Supplement) being untrue in any material respect as of the date made or deemed made (subject to a thirty (30) day grace period in the case of any breached representation, warranty or certification (other than a Specified Representation) that is reasonably capable of being cured); or

(e) Other Defaults Under Loan Documents. Default by Holdings, Intermediate Holdings, CP Holdings LLC, or any other Loan Party in the performance of or compliance with any term contained herein or any of the other Loan Documents, other than any such term referred to in any other Section of this Article 8, which default has not been remedied or waived within 30 days after receipt by the Administrative Borrower of written notice thereof from Agent; or

(f) Involuntary Bankruptcy; Appointment of Receiver, Etc. Other than in respect of the UK Loan Parties, (i) the entry by a court of competent jurisdiction of a decree or order for relief in respect of Holdings, Intermediate Holdings, CP Holdings LLC, a Borrower or any of their Restricted Subsidiaries (other than any Immaterial Subsidiary) in an involuntary case under any Debtor Relief 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, state or local Requirements of Law; or (ii) the commencement of an involuntary case against Holdings, Intermediate Holdings, CP Holdings LLC, the Borrowers or any of their Restricted Subsidiaries (other than any Immaterial Subsidiary) under any Debtor Relief Law; or the entry by a court having jurisdiction in the premises of a decree or order for the appointment of a receiver, receiver and manager, administrator, examiner, (preliminary) insolvency receiver, liquidator, sequestrator, trustee, custodian or other officer having similar powers over Holdings, Intermediate Holdings, CP Holdings LLC, the Borrowers or any of their Restricted Subsidiaries (other than any Immaterial Subsidiary), or over all or a substantial part of its or their property; or the involuntary appointment of an interim receiver, trustee or other custodian of Holdings, Intermediate Holdings, CP Holdings LLC, the Borrowers or any of their Restricted Subsidiaries (other than any Immaterial Subsidiary) for all or a substantial part of its property, which remains undismissed, unvacated, unbonded or unstayed pending appeal for 60 consecutive days; or

(g) Voluntary Bankruptcy; Appointment of Receiver, Etc. Other than in respect of the UK Loan Parties (i) the entry against Holdings, Intermediate Holdings, CP Holdings LLC, the Borrowers or any of their respective Restricted Subsidiaries (other than any Immaterial Subsidiary) of an order for relief, the commencement by Holdings, Intermediate Holdings, CP Holdings LLC, any Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) of a voluntary case under any Debtor Relief Law, or the consent by Holdings, Intermediate Holdings, CP Holdings LLC, any Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) 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 Debtor Relief Law, or the consent by Holdings, Intermediate Holdings, CP Holdings LLC, any Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) to the appointment of or taking possession by a receiver, receiver and manager, trustee or other custodian for all or a substantial part of its property; (ii) the making by Holdings, Intermediate Holdings, CP Holdings LLC, any Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) of a general assignment for the benefit of creditors; or (iii) the admission by Holdings, Intermediate Holdings, CP Holdings LLC, any Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) in writing of their inability to pay their respective debts as such debts become due; or

(h) Judgments and Attachments. The entry or filing of one or more final money judgments, writs or warrants of attachment or similar process against Holdings, Intermediate Holdings, CP Holdings LLC, any Borrower or any of its Restricted Subsidiaries or any of their respective assets involving in the aggregate at any time an amount in excess of the Threshold Amount (in either case to the extent not adequately covered by self-insurance (if applicable) or by insurance as to which the relevant third party insurance company has been notified and not denied coverage), which judgment, writ, warrant or similar process remains unpaid, undischarged, unvacated, unbonded or unstayed pending appeal for a period of 60 days; or

(i) Employee Benefit Plans. The occurrence of one or more ERISA Events, which individually or in the aggregate result in liability of Holdings or any of its Restricted Subsidiaries, in an aggregate amount which would reasonably be expected to result in a Material Adverse Effect; or

(j) Change of Control. The occurrence of a Change of Control; or

(k) Guaranties, Security Documents and Other Loan Documents. At any time after the execution and delivery thereof, (i) any material Guaranty (as defined in the US Guaranty and Security Agreement) for any reason, other than the occurrence of the Termination Date, 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 in writing its obligations thereunder (other than as a result of the discharge of such Guarantor in accordance with the terms thereof), (ii) this Agreement or any material Security Document ceases to be in full force and effect or shall be declared null and void (other than by reason of (x) a release of Collateral in accordance with the terms hereof or thereof or (y) the occurrence of the Termination Date or any other termination of such Security Document in accordance with the terms thereof) or (iii) any Loan Party shall contest in writing the validity or enforceability of any Loan Document or any material provision of any Loan Document or deny in writing that it has any further liability (other than by reason of the occurrence of the Termination Date), including with respect to future advances by the Lenders, under any Loan Document to which it is a party; it being understood and agreed that the failure of the Agent to maintain possession of any Collateral actually delivered to it or file any Uniform Commercial Code (or equivalent) continuation statement shall not result in an Event of Default under this clause (k) or any other provision of any Loan Document; or

(1) Subordination. The Obligations ceasing or the assertion in writing by any Loan Party that the Obligations cease to constitute senior indebtedness under the subordination provisions of any document or instrument evidencing any Junior Indebtedness or Junior Lien Indebtedness in excess of the Threshold Amount or any such subordination provision being invalidated or otherwise ceasing, for any reason, to be valid, binding and enforceable obligations of the parties thereto; or

(m) UK Insolvency. (a) An Insolvency Proceeding is filed against any UK Loan Party and such Insolvency Proceeding is not a winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within ten (10) days after the date of its commencement or, if earlier, the date any such petition is advertised; (b) a UK Loan Party (i) is unable or admits inability to pay its debts as they fall due or is deemed to or declared to be unable to pay its debts under applicable law (including from Section 123(1) of the Insolvency Act 1986 only sub-section 123(1)(e) and not sub-sections 123(1)(a) to (d)); (ii) suspends making payments on any of its debts, (iii) by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its Indebtedness, or (c) in respect of any UK Loan Party, it is proved to the satisfaction of a court that the value of its assets is less than that its liabilities (taking into account contingent and prospective liabilities) or a moratorium or other protection from its creditors is declared or imposed in respect of any its Indebtedness; or

(n) UK Pension Plans. The Pensions Regulator issues a Financial Support Direction or a Contribution Notice to any UK Loan Party.

9. **RIGHTS AND REMEDIES.**

9.1 **Rights and Remedies.** Upon the occurrence and during the continuation of an Event of Default, Agent may, and, at the instruction of the Required Lenders, shall, in addition to any other rights or remedies provided for hereunder or under any other Loan Document or by applicable law, do any one or more of the following:

(a) by written notice to Borrowers, (i) declare the principal of, and any and all accrued and unpaid interest and fees in respect of, the Loans and all other Obligations (other than the Bank Product Obligations), whether evidenced by this Agreement or by any of the other Loan Documents to be immediately due and payable, whereupon the same shall become and be immediately due and payable and Borrowers shall be obligated to repay all of such Obligations in full, without presentment, demand, protest, or further notice or other requirements of any kind, all of which are hereby expressly waived by each Borrower, and (ii) direct Borrowers to provide (and Borrowers agree that upon receipt of such notice Borrowers will provide) Letter of Credit Collateralization to Agent to be held as security for Borrowers' reimbursement obligations for drawings that may subsequently occur under issued and outstanding Letters of Credit;

(b) by written notice to Borrowers, declare the Commitments terminated, whereupon the Commitments shall immediately be terminated together with (i) any obligation of any Revolving Lender to make Revolving Loans, (ii) the obligation of the Swing Lender to make Swing Loans, and (iii) the obligation of Issuing Bank to issue Letters of Credit; and

(c) exercise all other rights and remedies available to Agent or the Lenders under the Loan Documents, under applicable law, or in equity; provided, that, with respect to any Event of Default resulting solely from failure of Borrowers to comply with the financial covenant set forth in Article 7, neither Agent nor the Required Lenders may exercise the foregoing remedies in this Section 9.1 until the date that is the earlier of (i) ten (10) Business Days after the day on which financial statements are required to be delivered for the applicable month and (ii) the date that Agent receives notice that there will not be a Curative Equity contribution made for such month.

The foregoing to the contrary notwithstanding, upon the occurrence of any Event of Default described in Section 8.1(f) or Section 8.1(g) in relation to a US Borrower, in addition to the remedies set forth above, without any notice to Borrowers or any other Person or any act by the Lender Group, the US Revolver Commitments shall automatically terminate and the US Obligations (other than the Bank Product Obligations), inclusive of the principal of, and any and all accrued and unpaid interest and fees in respect of, the US Loans and all other US Obligations (other than the Bank Product Obligations), whether evidenced by this Agreement or by any of the other Loan Documents, shall automatically become and be immediately due and payable and US Borrowers shall automatically be obligated to repay all of such US Obligations in full (including US Borrowers being obligated to provide (and US Borrowers agree that they will provide) (1) Letter of Credit Collateralization to Agent to be held as security for US Borrowers' reimbursement obligations in respect of drawings that may subsequently occur under issued and outstanding Letters of Credit and (2) Bank Product Collateralization to be held as security for Holdings' or its Subsidiaries' obligations in respect of outstanding Bank Products), without presentment, demand, protest, or notice or other requirements of any kind, all of which are expressly waived by Holdings, Intermediate Holdings, CP Holdings LLC, and US Borrowers.

9.2 **Remedies Cumulative.** The rights and remedies of the Lender Group under this Agreement, the other Loan Documents, and all other agreements shall be cumulative. The Lender Group shall have all other rights and remedies not inconsistent herewith as provided under the Code, by law, or in equity. No exercise by the Lender Group of one right or remedy shall be deemed an election, and no waiver —by the Lender Group of any Event of Default shall be deemed a continuing waiver. No delay by the Lender Group shall constitute a waiver, election, or acquiescence by it.

9.3 **Curative Equity.**

(a) At the election of Administrative Borrower upon written notice to Agent and subject to the limitations set forth in clause (d) below, Holdings and Borrowers may cure (and shall be deemed to have cured) an Event of Default arising out of a breach of the Fixed Charge Coverage Ratio financial covenant set forth in Article 7 if they receive the cash proceeds of an investment of Curative Equity within 10 Business Days after the date on which the Fixed Charge Coverage Ratio is first required to be tested pursuant to the terms hereof.

(b) Borrowers shall promptly notify Agent of its receipt of any proceeds of Curative Equity and any investment of Curative Equity shall be in immediately available funds.

(c) Upon delivery of a certificate by Administrative Borrower to Agent as to the amount of the proceeds of such Curative Equity and that such amount complies with the provisions of this Section 9.3, then any Event of Default that occurred and is continuing from a breach of the Fixed Charge Coverage Ratio shall be deemed cured with no further action required by the Required Lenders. Prior to the date of the delivery of a certificate conforming to the requirements of this Section, any Event of Default that has occurred as a result of a breach of the Fixed Charge Coverage Ratio shall be deemed to be continuing and, as a result, the Lenders (including the Swing Lender and the Issuing Bank) shall have no obligation to make additional Loans or otherwise extend additional credit hereunder. In the event Holdings and Borrowers do not cure all financial covenant violations as provided in this Section 9.3, the existing Event of Default shall continue unless waived in writing by the Required Lenders in accordance herewith.

(d) Notwithstanding anything to the contrary contained in the foregoing or this Agreement, (i) Holdings and Borrowers' rights under this Section 9.3 may (A) be exercised not more than five (5) times during the term of this Agreement, (B) not be exercised unless in each four fiscal quarter period, there shall be a period of two fiscal quarters in which no Curative Equity is contributed pursuant hereto, (ii) the Curative Equity contributed in any month shall be no greater than the amount required to cause Borrowers to be in pro forma compliance with the Fixed Charge Coverage Ratio for the applicable period, and (iii) the Curative Equity shall be disregarded for purposes of determining EBITDA for any pricing, financial covenant based conditions or any baskets with respect to the covenants contained in this Agreement and there shall be no pro forma reduction in Indebtedness with the proceeds of any Curative Equity for determining compliance with the Fixed Charge Coverage Ratio or for determining any pricing, financial covenant based conditions or baskets with respect to the covenants contained in this Agreement, in each case in the quarter in which such Curative Equity is used.

10. **WAIVERS; INDEMNIFICATION.**

10.1 **Demand; Protest; etc.** Each Borrower waives demand, protest, notice of protest, notice of default or dishonor, notice of payment and nonpayment, nonpayment at maturity, release, compromise, settlement, extension, or renewal of documents, instruments, chattel paper, and guarantees at any time held by the Lender Group on which any Borrower may in any way be liable.

10.2 **The Lender Group's Liability for Collateral.** Each Borrower hereby agrees that: (a) so long as Agent complies with its obligations, if any, under the Code, the Lender Group shall not in any way or manner be liable or responsible for: (i) the safekeeping of the Collateral, (ii) any loss or damage thereto occurring or arising in any manner or fashion from any cause, (iii) any diminution in the value thereof, or (iv) any act or default of any carrier, warehouseman, bailee, forwarding agency, or other Person, and (b) all risk of loss, damage, or destruction of the Collateral shall be borne by Borrowers.

10.3 **Indemnification.** Without duplication of any amounts paid pursuant to Section 2.11(f), each Loan Party shall pay, indemnify, defend, and hold the Agent-Related Persons, the Lender-Related Persons, and each Participant (each, an "Indemnified Person") harmless (to the fullest extent permitted by law) from and against any and all claims, demands, suits, actions, investigations, proceedings, liabilities, fines, costs, penalties, and damages, and all reasonable fees and disbursements of attorneys (limited to such fees and disbursements of attorneys of one firm of counsel for all such Indemnified Persons and one local counsel for all such Indemnified Persons in each appropriate jurisdiction and, to the extent required by the subject matter, one specialist counsel for each specialized area of law in each appropriate jurisdiction (and, solely in the event of an actual or perceived conflict of interest as determined by the affected Indemnified Persons, one counsel for such affected Indemnified Persons taken as a whole), experts, or consultants and all other costs and out-of-pocket expenses actually incurred in connection therewith or in connection with the enforcement of this indemnification (as and when they are incurred and irrespective of whether suit is brought), at any time asserted against, imposed upon, or incurred by any of them (a) in connection with or as a result of or related to the execution and delivery (provided that Borrowers shall not be liable for costs and expenses (including attorneys fees) of any Lender (other than Wells Fargo) incurred in advising, structuring, drafting, reviewing, administering or syndicating the Loan Documents), enforcement, performance, or administration (including any restructuring or workout with respect hereto) of this Agreement, any of the other Loan Documents, any Related Agreement or the transactions contemplated hereby or thereby or the monitoring of Holdings' and its Subsidiaries' compliance with the terms of the Loan Documents, (b) with respect to any actual or prospective investigation, litigation, or proceeding related to this Agreement, any other Loan Document, any Related Agreement, the making of any Loans or issuance of any Letters of Credit hereunder, or the use of the proceeds of the Loans or the Letters of Credit provided hereunder (irrespective of whether any Indemnified Person is a party thereto), or any act, omission, event, or circumstance in any manner related thereto, and (c) in connection with or arising out of any presence or release of Hazardous Materials at, on, under, to or from any assets or properties owned, leased or operated by any Borrower or any of its Subsidiaries or any Environmental Claims, Environmental Liabilities or Remedial Actions related in any way to any such assets or properties of any Borrower or any of its Subsidiaries (each and all of the foregoing, the "Indemnified Liabilities") (provided, that the foregoing indemnifications in clauses (a) through (c) shall not extend to (i) disputes solely between or among the Lenders that do not involve any acts or omissions of any Loan Party, or (ii) disputes solely between or among the Lenders and their respective Affiliates that do not involve any acts or omissions of any Loan Party; it being understood and agreed that the indemnification in such clauses shall extend to Agent (but not the Lenders) relative to disputes between or among Agent on the one hand, and one or more Lenders, or one or more of their Affiliates, on the other hand. The foregoing to the contrary notwithstanding, no Loan Party shall have any obligation to any Indemnified Person under this Section 10.3 with respect to any Indemnified Liability that a court of competent jurisdiction finally determines to have resulted from the gross negligence, willful misconduct or bad faith of such Indemnified Person or its officers, directors, employees, attorneys, or agents. This provision shall survive the termination of this Agreement and the repayment in full of the Obligations. If any Indemnified Person makes any payment to any other Indemnified Person with respect to an Indemnified Liability as to which Borrowers were required to indemnify the Indemnified Person receiving such payment, the Indemnified Person making such payment is entitled to be indemnified and reimbursed by Borrowers with respect thereto. This Section 10.3 shall not apply with respect to Taxes other than Taxes that represent losses, claims or damages arising from any non-Tax claim. **WITHOUT LIMITATION, THE FOREGOING INDEMNITY SHALL APPLY TO EACH INDEMNIFIED PERSON WITH RESPECT TO INDEMNIFIED LIABILITIES WHICH IN WHOLE OR IN PART ARE CAUSED BY OR ARISE OUT OF ANY NEGLIGENT ACT OR OMISSION OF SUCH INDEMNIFIED PERSON OR OF ANY OTHER PERSON.**

11. **NOTICES.**

Unless otherwise provided in this Agreement, all notices or demands relating to this Agreement or any other Loan Document shall be in writing and (except for financial statements and other informational documents which may be sent by first-class mail, postage prepaid) shall be personally delivered or sent by registered or certified mail (postage prepaid, return receipt requested), overnight courier, electronic mail (at such email addresses as a party may designate in accordance herewith), or telefacsimile. In the case of notices or demands to any Borrower or Agent, as the case may be, they shall be sent to the respective address set forth below:

If to any Borrower:	**BRUNDAGE BONE CONCRETE PUMPING HOLDINGS INC.** 6461 Downing Street Denver, CO 80029 Attn: Iain Humphries Tel. No.: (303) 289-7497 Email: iainhumphries@brundagebone.com
with copy to (which shall not constitute notice to any Loan Party):	**ARGAND PARTNERS LP LLC** Club Row Building 28 West 44th Street, Suite 501 New York, NY 10036 Attn: Tariq Osman Tel. No.: (212) 588-6470 Email: tosman@argandequity.com
with additional copy to (which shall not constitute notice to any Loan Party):	**WINSTON & STRAWN LLP** 200 Park Avenue New York, NY 10166-4193 Attn: Peter Alfano Tel. No.: (212) 294-6765 Email: palfano@winston.com

If to Agent: **WELLS FARGO BANK, NATIONAL ASSOCIATION**
2450 Colorado Ave, Suite 3000 West
Santa Monica, CA 90404
Attn: Peter Aziz, Senior Vice President
Fax No.: (866) 358-0984
Email: Peter.Aziz@WellsFargo.com

with copies to: **MORGAN, LEWIS & BOCKIUS LLP**
300 South Grand Avenue, 22nd Floor
Los Angeles, California 90071-3132
Attn: Marshall Stoddard, Jr., Esq.
Fax No: (212) 309-6001
Email: Marshall.Stoddard@MorganLewis.com

Any party hereto may change the address at which they are to receive notices hereunder, by notice in writing in the foregoing manner given to the other party. All notices or demands sent in accordance with this Section 11, shall be deemed received on the earlier of the date of actual receipt or 3 Business Days after the deposit thereof in the mail; provided, that (a) notices sent by overnight courier service shall be deemed to have been given when received, (b) notices by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient) and (c) notices by electronic mail shall be deemed received upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return email or other written acknowledgment).

12. **CHOICE OF LAW AND VENUE; JURY TRIAL WAIVER; JUDICIAL REFERENCE PROVISION.**

(a) **THE VALIDITY OF THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (UNLESS EXPRESSLY PROVIDED TO THE CONTRARY IN ANOTHER LOAN DOCUMENT IN RESPECT OF SUCH OTHER LOAN DOCUMENT), THE CONSTRUCTION, INTERPRETATION, AND ENFORCEMENT HEREOF AND THEREOF, THE RIGHTS OF THE PARTIES HERETO AND THERETO WITH RESPECT TO ALL MATTERS ARISING HEREUNDER OR THEREUNDER OR RELATED HERETO OR THERETO, AND ANY CLAIMS, CONTROVERSIES OR DISPUTES ARISING HEREUNDER OR THEREUNDER OR RELATED HERETO OR THERETO SHALL BE DETERMINED UNDER, GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK; PROVIDED THAT (I) THE INTERPRETATION OF THE DEFINITION OF "MATERIAL ADVERSE EFFECT" (AS DEFINED IN THE CONCRETE PUMPING ACQUISITION AGREEMENT) (AND WHETHER OR NOT SUCH A MATERIAL ADVERSE EFFECT HAS OCCURRED), (II) THE DETERMINATION OF THE ACCURACY OF ANY SPECIFIED ACQUISITION AGREEMENT REPRESENTATION AND WHETHER AS A RESULT OF ANY INACCURACY THEREOF EITHER THAT CONCRETE MERGER SUB OR ANY OF ITS AFFILIATES HAS THE RIGHT TO TERMINATE ITS OBLIGATIONS UNDER THE CONCRETE PUMPING ACQUISITION AGREEMENT OR TO DECLINE TO CONSUMMATE THE CONCRETE PUMPING ACQUISITION AND (III) THE DETERMINATION OF WHETHER THE CONCRETE PUMPING ACQUISITION HAS BEEN CONSUMMATED IN ACCORDANCE WITH THE TERMS OF THE CONCRETE PUMPING ACQUISITION AGREEMENT AND, IN ANY CASE, CLAIMS OR DISPUTES ARISING OUT OF ANY SUCH INTERPRETATION OR DETERMINATION OR ANY ASPECT THEREOF SHALL, IN EACH CASE, BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF DELAWARE, REGARDLESS OF THE LAWS THAT MIGHT OTHERWISE GOVERN UNDER APPLICABLE PRINCIPLES OF CONFLICTS OF LAWS THEREOF.**

(b) THE PARTIES AGREE THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS SHALL BE TRIED AND LITIGATED ONLY IN THE STATE AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, FEDERAL COURTS LOCATED IN THE COUNTY OF NEW YORK, STATE OF NEW YORK; PROVIDED, THAT ANY SUIT SEEKING ENFORCEMENT AGAINST ANY COLLATERAL OR OTHER PROPERTY MAY BE BROUGHT, AT AGENT'S OR UK SECURITY AGENT'S OPTION, IN THE COURTS OF ANY JURISDICTION WHERE AGENT OR UK SECURITY AGENT ELECTS TO BRING SUCH ACTION OR WHERE SUCH COLLATERAL OR OTHER PROPERTY MAY BE FOUND. EACH OF HOLDINGS, INTERMEDIATE HOLDINGS, CP HOLDINGS LLC, AND EACH BORROWER AND EACH MEMBER OF THE LENDER GROUP WAIVE, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, ANY RIGHT EACH MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS SECTION 12(b).

(c) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EACH OF HOLDINGS, INTERMEDIATE HOLDINGS, CP HOLDINGS LLC, AND EACH BORROWER AND EACH MEMBER OF THE LENDER GROUP HEREBY WAIVE THEIR RESPECTIVE RIGHTS, IF ANY, TO A JURY TRIAL OF ANY CLAIM, CONTROVERSY, DISPUTE OR CAUSE OF ACTION DIRECTLY OR INDIRECTLY BASED UPON OR ARISING OUT OF ANY OF THE LOAN DOCUMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED THEREIN, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS (EACH A "CLAIM"). EACH OF HOLDINGS, INTERMEDIATE HOLDINGS, CP HOLDINGS LLC, AND EACH BORROWER AND EACH MEMBER OF THE LENDER GROUP REPRESENT THAT EACH HAS REVIEWED THIS WAIVER AND EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. IN THE EVENT OF LITIGATION, A COPY OF THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

(d) EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF NEW YORK AND THE STATE OF NEW YORK, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENTS, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT. 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. NOTHING IN THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT AGENT MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST ANY LOAN PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(e) **NO CLAIM MAY BE MADE BY ANY LOAN PARTY AGAINST AGENT, UK SECURITY AGENT, SWING LINE LENDER, ANY OTHER LENDER, ISSUING BANK, OR ANY AFFILIATE, DIRECTOR, OFFICER, EMPLOYEE, COUNSEL, REPRESENTATIVE, AGENT, OR ATTORNEY-IN-FACT OF ANY OF THEM FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OR LOSSES IN RESPECT OF ANY CLAIM FOR BREACH OF CONTRACT OR ANY OTHER THEORY OF LIABILITY ARISING OUT OF OR RELATED TO THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR ANY ACT, OMISSION, OR EVENT OCCURRING IN CONNECTION THEREWITH, AND EACH LOAN PARTY HEREBY WAIVES, RELEASES, AND AGREES NOT TO SUE UPON ANY CLAIM FOR SUCH DAMAGES, WHETHER OR NOT ACCRUED AND WHETHER OR NOT KNOWN OR SUSPECTED TO EXIST IN ITS FAVOR.**

(f) **IN THE EVENT ANY LEGAL PROCEEDING IS FILED IN A COURT OF THE STATE OF CALIFORNIA (THE "COURT") BY OR AGAINST ANY PARTY HERETO IN CONNECTION WITH ANY CLAIM AND THE WAIVER SET FORTH IN CLAUSE (C) ABOVE IS NOT ENFORCEABLE IN SUCH PROCEEDING, THE PARTIES HERETO AGREE AS FOLLOWS:**

(i) **WITH THE EXCEPTION OF THE MATTERS SPECIFIED IN SUBCLAUSE (ii) BELOW, ANY CLAIM SHALL BE DETERMINED BY A GENERAL REFERENCE PROCEEDING IN ACCORDANCE WITH THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 THROUGH 645.1. THE PARTIES INTEND THIS GENERAL REFERENCE AGREEMENT TO BE SPECIFICALLY ENFORCEABLE. VENUE FOR THE REFERENCE PROCEEDING SHALL BE IN THE COUNTY OF LOS ANGELES, CALIFORNIA.**

(ii) **THE FOLLOWING MATTERS SHALL NOT BE SUBJECT TO A GENERAL REFERENCE PROCEEDING: (A) NON-JUDICIAL FORECLOSURE OF ANY SECURITY INTERESTS IN REAL OR PERSONAL PROPERTY, (B) EXERCISE OF SELF-HELP REMEDIES (INCLUDING SET-OFF OR RECOUPMENT), (C) APPOINTMENT OF A RECEIVER, AND (D) TEMPORARY, PROVISIONAL, OR ANCILLARY REMEDIES (INCLUDING WRITS OF ATTACHMENT, WRITS OF POSSESSION, TEMPORARY RESTRAINING ORDERS, OR PRELIMINARY INJUNCTIONS). THIS AGREEMENT DOES NOT LIMIT THE RIGHT OF ANY PARTY TO EXERCISE OR OPPOSE ANY OF THE RIGHTS AND REMEDIES DESCRIBED IN CLAUSES (A) - (D) AND ANY SUCH EXERCISE OR OPPOSITION DOES NOT WAIVE THE RIGHT OF ANY PARTY TO PARTICIPATE IN A REFERENCE PROCEEDING PURSUANT TO THIS AGREEMENT WITH RESPECT TO ANY OTHER MATTER.**

(iii) **UPON THE WRITTEN REQUEST OF ANY PARTY, THE PARTIES SHALL SELECT A SINGLE REFEREE, WHO SHALL BE A RETIRED JUDGE OR JUSTICE. IF THE PARTIES DO NOT AGREE UPON A REFEREE WITHIN 10 DAYS OF SUCH WRITTEN REQUEST, THEN, ANY PARTY SHALL HAVE THE RIGHT TO REQUEST THE COURT TO APPOINT A REFEREE PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 640(B). THE REFEREE SHALL BE APPOINTED TO SIT WITH ALL OF THE POWERS PROVIDED BY LAW. PENDING APPOINTMENT OF THE REFEREE, THE COURT SHALL HAVE THE POWER TO ISSUE TEMPORARY OR PROVISIONAL REMEDIES.**

(iv) **EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE REFEREE SHALL DETERMINE THE MANNER IN WHICH THE REFERENCE PROCEEDING IS CONDUCTED INCLUDING THE TIME AND PLACE OF HEARINGS, THE ORDER OF PRESENTATION OF EVIDENCE, AND ALL OTHER QUESTIONS THAT ARISE WITH RESPECT TO THE COURSE OF THE REFERENCE PROCEEDING. ALL PROCEEDINGS AND HEARINGS CONDUCTED BEFORE THE REFEREE, EXCEPT FOR TRIAL, SHALL BE CONDUCTED WITHOUT A COURT REPORTER, EXCEPT WHEN ANY PARTY SO REQUESTS A COURT REPORTER AND A TRANSCRIPT IS ORDERED, A COURT REPORTER SHALL BE USED AND THE REFEREE SHALL BE PROVIDED A COURTESY COPY OF THE TRANSCRIPT. THE PARTY MAKING SUCH REQUEST SHALL HAVE THE OBLIGATION TO ARRANGE FOR AND PAY THE COSTS OF THE COURT REPORTER; PROVIDED THAT SUCH COSTS, ALONG WITH THE REFEREE'S FEES, SHALL ULTIMATELY BE BORNE BY THE PARTY WHO DOES NOT PREVAIL, AS DETERMINED BY THE REFEREE.**

(v) **THE REFEREE MAY REQUIRE ONE OR MORE PREHEARING CONFERENCES. THE PARTIES HERETO SHALL BE ENTITLED TO DISCOVERY, AND THE REFEREE SHALL OVERSEE DISCOVERY IN ACCORDANCE WITH THE RULES OF DISCOVERY, AND SHALL ENFORCE ALL DISCOVERY ORDERS IN THE SAME MANNER AS ANY TRIAL COURT JUDGE IN PROCEEDINGS AT LAW IN THE STATE OF CALIFORNIA.**

(vi) **THE REFEREE SHALL APPLY THE RULES OF EVIDENCE APPLICABLE TO PROCEEDINGS AT LAW IN THE STATE OF CALIFORNIA AND SHALL DETERMINE ALL ISSUES IN ACCORDANCE WITH CALIFORNIA SUBSTANTIVE AND PROCEDURAL LAW. THE REFEREE SHALL BE EMPOWERED TO ENTER EQUITABLE AS WELL AS LEGAL RELIEF AND RULE ON ANY MOTION WHICH WOULD BE AUTHORIZED IN A TRIAL, INCLUDING MOTIONS FOR DEFAULT JUDGMENT OR SUMMARY JUDGMENT. THE REFEREE SHALL REPORT HIS OR HER DECISION, WHICH REPORT SHALL ALSO INCLUDE FINDINGS OF FACT AND CONCLUSIONS OF LAW. THE REFEREE SHALL ISSUE A DECISION AND PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE, SECTION 644, THE REFEREE'S DECISION SHALL BE ENTERED BY THE COURT AS A JUDGMENT IN THE SAME MANNER AS IF THE ACTION HAD BEEN TRIED BY THE COURT. THE FINAL JUDGMENT OR ORDER FROM ANY APPEALABLE DECISION OR ORDER ENTERED BY THE REFEREE SHALL BE FULLY APPEALABLE AS IF IT HAS BEEN ENTERED BY THE COURT.**

(vii) **THE PARTIES RECOGNIZE AND AGREE THAT ALL CLAIMS RESOLVED IN A GENERAL REFERENCE PROCEEDING PURSUANT HERETO WILL BE DECIDED BY A REFEREE AND NOT BY A JURY. AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR OWN CHOICE, EACH PARTY HERETO KNOWINGLY AND VOLUNTARILY AND FOR THEIR MUTUAL BENEFIT AGREES THAT THIS REFERENCE PROVISION SHALL APPLY TO ANY DISPUTE BETWEEN THEM THAT ARISES OUT OF OR IS RELATED TO THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS.**

13. **ASSIGNMENTS AND PARTICIPATIONS; SUCCESSORS.**

13.1 Assignments and Participations.

(a) (i) Subject to the conditions set forth in clause (a)(ii) below, any Lender may assign and delegate all or any portion of its rights and duties under the Loan Documents (including the Obligations owed to it and its Commitments) to one or more assignees so long as such prospective assignee is an Eligible Transferee (each, an "Assignee"), with the prior written consent (such consent not be unreasonably withheld or delayed) of:

(A) Administrative Borrower; provided, that no consent of Administrative Borrower shall be required (1) if an Event of Default has occurred and is continuing, or (2) in connection with an assignment to a Person that is a Lender or an Affiliate (other than natural persons) of a Lender; provided further, that Borrowers shall be deemed to have consented to a proposed assignment unless they object thereto by written notice to Agent within 5 Business Days after having received notice thereof; and

(B) Agent, Swing Lender, and Issuing Bank.

(ii) Assignments shall be subject to the following additional conditions:

(A) no assignment may be made to a natural person,

(B) no assignment may be made to a Loan Party, an Affiliate of a Loan Party or any Sponsor Affiliated Entity,

(C) no assignment may be made to a Disqualified Institution unless a Specified Event of Default of the type referred to in clause (a), (d) or (e) of the definition thereof has occurred and is continuing,

(D) the amount of the Commitments and the other rights and obligations of the assigning Lender hereunder and under the other Loan Documents subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to Agent) shall be in a minimum amount (unless waived by Agent) of $5,000,000 (except such minimum amount shall not apply to (I) an assignment or delegation by any Lender to any other Lender, an Affiliate of any Lender, or a Related Fund of such Lender or (II) a group of new Lenders, each of which is an Affiliate of each other or a Related Fund of such new Lender to the extent that the aggregate amount to be assigned to all such new Lenders is at least $5,000,000),

(E) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement,

(F) the parties to each assignment shall execute and deliver to Agent an Assignment and Acceptance; provided, that Borrowers and Agent may continue to deal solely and directly with the assigning Lender in connection with the interest so assigned to an Assignee until written notice of such assignment, together with payment instructions, addresses, and related information with respect to the Assignee, have been given to Borrowers and Agent by such Lender and the Assignee,

(G) unless waived by Agent, the assigning Lender or Assignee has paid to Agent, for Agent's separate account, a processing fee in the amount of $3,500, and

(H) the assignee, if it is not a Lender, shall deliver to Agent an Administrative Questionnaire in a form approved by Agent (the "Administrative Questionnaire").

Notwithstanding anything contained herein to the contrary, no assignment may be made unless after giving effect thereto (i) the Pro Rata Share of the US Revolver Commitment of a Lender and its Affiliates shall equal the Pro Rata Share of the UK Revolver Commitments of such Lender and its Affiliates and (ii) the Pro Rata Share of the UK Revolver Commitments of a Lender and its Affiliates shall equal the Pro Rata Share of the US Revolver Commitments of such Lender and its Affiliates.

(b) From and after the date that Agent receives the executed Assignment and Acceptance and, if applicable, payment of the required processing fee, subject to Section 13.1(h), (i) the Assignee thereunder shall be a party hereto and, to the extent that rights and obligations hereunder have been assigned to it pursuant to such Assignment and Acceptance, shall be a "Lender" and shall have the rights and obligations of a Lender under the Loan Documents, and (ii) the assigning Lender shall, to the extent that rights and obligations hereunder and under the other Loan Documents have been assigned by it pursuant to such Assignment and Acceptance, relinquish its rights (except with respect to Section 10.3) and be released from any future obligations under this Agreement (and in the case of an Assignment and Acceptance covering all or the remaining portion of an assigning Lender's rights and obligations under this Agreement and the other Loan Documents, such Lender shall cease to be a party hereto and thereto); provided, that nothing contained herein shall release any assigning Lender from obligations that survive the termination of this Agreement, including such assigning Lender's obligations under Section 15 and Section 17.9(a).

(c) By executing and delivering an Assignment and Acceptance, the assigning Lender thereunder and the Assignee thereunder confirm to and agree with each other and the other parties hereto as follows: (i) other than as provided in such Assignment and Acceptance, such assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with this Agreement or the execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement or any other Loan Document furnished pursuant hereto, (ii) such assigning Lender makes no representation or warranty and assumes no responsibility with respect to the financial condition of any Borrower or the performance or observance by any Borrower of any of its obligations under this Agreement or any other Loan Document furnished pursuant hereto, (iii) such Assignee confirms that it has received a copy of this Agreement, together with such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment and Acceptance, (iv) such Assignee will, independently and without reliance upon Agent, such assigning Lender or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement, (v) such Assignee appoints and authorizes Agent to take such actions and to exercise such powers under this Agreement and the other Loan Documents as are delegated to Agent, by the terms hereof and thereof, together with such powers as are reasonably incidental thereto, and (vi) such Assignee agrees that it will perform all of the obligations which by the terms of this Agreement are required to be performed by it as a Lender.

(d) Immediately upon Agent's receipt of the required processing fee, if applicable, and delivery of notice to the assigning Lender pursuant to Section 13.1(b), this Agreement shall be deemed to be amended to the extent, but only to the extent, necessary to reflect the addition of the Assignee and the resulting adjustment of the Commitments arising therefrom. The Commitment allocated to each Assignee shall reduce such Commitments of the assigning Lender *pro tanto*.

(e) Any Lender may at any time sell to one or more commercial banks, financial institutions, or other Persons (a "Participant") participating interests in all or any portion of its Obligations, its Commitment, and the other rights and interests of that Lender (the "Originating Lender") hereunder and under the other Loan Documents; provided, that (i) the Originating Lender shall remain a "Lender" for all purposes of this Agreement and the other Loan Documents and the Participant receiving the participating interest in the Obligations, the Commitments, and the other rights and interests of the Originating Lender hereunder shall not constitute a "Lender" hereunder or under the other Loan Documents and the Originating Lender's obligations under this Agreement shall remain unchanged, (ii) the Originating Lender shall remain solely responsible for the performance of such obligations, (iii) Borrowers, Agent, and the Lenders shall continue to deal solely and directly with the Originating Lender in connection with the Originating Lender's rights and obligations under this Agreement and the other Loan Documents, (iv) no Lender shall transfer or grant any participating interest under which the Participant has the right to approve any amendment to, or any consent or waiver with respect to, this Agreement or any other Loan Document, except to the extent such amendment to, or consent or waiver with respect to this Agreement or of any other Loan Document would (A) extend the final maturity date of the Obligations hereunder in which such Participant is participating, (B) reduce the interest rate applicable to the Obligations hereunder in which such Participant is participating, (C) release all or substantially all of the Collateral or guaranties (except to the extent expressly provided herein or in any of the Loan Documents) supporting the Obligations hereunder in which such Participant is participating, (D) postpone the payment of, or reduce the amount of, the interest or fees payable to such Participant through such Lender (other than a waiver of default interest), or (E) decreases the amount or postpones the due dates of scheduled principal repayments or prepayments or premiums payable to such Participant through such Lender, (v) no participation shall be sold to a natural person, (vi) no participation shall be sold to a Loan Party, an Affiliate of a Loan Party, or any Sponsor Affiliated Entity, and (vii) except as provided below, all amounts payable by Borrowers hereunder shall be determined as if such Lender had not sold such participation, except that, if amounts outstanding under this Agreement are due and unpaid, or shall have been declared or shall have become due and payable upon the occurrence of an Event of Default, each Participant shall be deemed to have the right of set off in respect of its participating interest in amounts owing under this Agreement to the same extent as if the amount of its participating interest were owing directly to it as a Lender under this Agreement. The rights of any Participant only shall be derivative through the Originating Lender with whom such Participant participates and no Participant shall have any rights under this Agreement or the other Loan Documents, or any direct rights as to the other Lenders, Agent, Borrowers, the Collateral, or otherwise in respect of the Obligations. No Participant shall have the right to participate directly in the making of decisions by the Lenders among themselves.

(f) In connection with any such assignment or participation or proposed assignment or participation or any grant of a security interest in, or pledge of, its rights under and interest in this Agreement, a Lender may, subject to the provisions of Section 17.9, disclose all documents and information which it now or hereafter may have relating to Holdings and its Subsidiaries and their respective businesses.

(g) Any other provision in this Agreement notwithstanding, any Lender may at any time create a security interest in, or pledge, all or any portion of its rights under and interest in this Agreement to secure obligations of such Lender, including any pledge in favor of any Federal Reserve Bank in accordance with Regulation A of the Federal Reserve Bank or US Treasury Regulation 31 CFR §203.24, and such Federal Reserve Bank may enforce such pledge or security interest in any manner permitted under applicable law; provided that no such pledge shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(h) Agent (as a non-fiduciary agent on behalf of Borrowers) shall maintain, or cause to be maintained, a register (the "Register") on which it enters the name and address of each Lender as the registered owner of the Revolving Loans (and the principal amount thereof and stated interest thereon) held by such Lender (each, a "Registered Loan"). Other than in connection with an assignment by a Lender of all or any portion of its portion of the Revolving Loans to an Affiliate of such Lender or a Related Fund of such Lender (i) a Registered Loan (and the registered note, if any, evidencing the same) may be assigned or sold in whole or in part only by registration of such assignment or sale on the Register (and each registered note shall expressly so provide) and (ii) any assignment or sale of all or part of such Registered Loan (and the registered note, if any, evidencing the same) may be effected only by registration of such assignment or sale on the Register, together with the surrender of the registered note, if any, evidencing the same duly endorsed by (or accompanied by a written instrument of assignment or sale duly executed by) the holder of such registered note, whereupon, at the request of the designated assignee(s) or transferee(s), one or more new registered notes in the same aggregate principal amount shall be issued to the designated assignee(s) or transferee(s). Prior to the registration of assignment or sale of any Registered Loan (and the registered note, if any evidencing the same), Borrowers shall treat the Person in whose name such Registered Loan (and the registered note, if any, evidencing the same) is registered as the owner thereof for the purpose of receiving all payments thereon and for all other purposes, notwithstanding notice to the contrary. In the case of any assignment by a Lender of all or any portion of its Revolving Loans to an Affiliate of such Lender or a Related Fund of such Lender, and which assignment is not recorded in the Register, the assigning Lender, on behalf of the Borrowers, shall maintain a register comparable to the Register.

(i) In the event that a Lender sells participations in the Registered Loan, such Lender, as a non-fiduciary agent on behalf of Borrowers, shall maintain (or cause to be maintained) a register on which it enters the name of all participants in the Registered Loans held by it (and the principal amount (and stated interest thereon) of the portion of such Registered Loans that is subject to such participations) (the "Participant Register"). A Registered Loan (and the registered note, if any, evidencing the same) may be participated in whole or in part only by registration of such participation on the Participant Register (and each registered note shall expressly so provide). Any participation of such Registered Loan (and the registered note, if any, evidencing the same) may be effected only by the registration of such participation on the Participant Register. No Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, Agent (in its capacity as Agent) shall have no responsibility for maintaining a Participant Register.

(j) Agent shall make a copy of the Register (and each Lender shall make a copy of its Participant Register to the extent it has one) available for review by Borrowers from time to time as Borrowers may reasonably request.

13.2 **Successors.** This Agreement shall bind and inure to the benefit of the respective successors and assigns of each of the parties; provided, that no Borrower may assign this Agreement or any rights or duties hereunder without the Lenders' prior written consent and any prohibited assignment shall be absolutely void *ab initio*. No consent to assignment by the Lenders shall release any Borrower from its Obligations. A Lender may assign this Agreement and the other Loan Documents and its rights and duties hereunder and thereunder pursuant to Section 13.1 and, except as expressly required pursuant to Section 13.1, no consent or approval by any Borrower is required in connection with any such assignment.

14. AMENDMENTS; WAIVERS.

14.1 Amendments and Waivers.

(a) No amendment, waiver or other modification of any provision of this Agreement or any other Loan Document (other than Bank Product Agreements or the Fee Letter), and no consent with respect to any departure by any Borrower therefrom, shall be effective unless the same shall be in writing and signed by the Required Lenders (or by Agent at the written request of the Required Lenders) and the Loan Parties that are party thereto and then any such waiver or consent shall be effective, but only in the specific instance and for the specific purpose for which given; provided, that no such waiver, amendment, or consent shall, unless in writing and signed by all of the Lenders directly affected thereby and all of the Loan Parties that are party thereto, do any of the following:

(i) increase the amount of or extend the expiration date of any Commitment of any Lender or amend, modify, or eliminate the last sentence of Section 2.4(c),

(ii) postpone or delay any date fixed by this Agreement or any other Loan Document for any payment of principal, interest, fees, or other amounts due hereunder or under any other Loan Document,

(iii) reduce the principal of, or the rate of interest on, any loan or other extension of credit hereunder, or reduce any fees or other amounts payable hereunder or under any other Loan Document (except (y) in connection with the waiver of applicability of Section 2.6(c) (which waiver shall be effective with the written consent of the Required Lenders), and (z) that any amendment or modification of defined terms used in the financial covenant in this Agreement shall not constitute a reduction in the rate of interest or a reduction of fees for purposes of this clause (iii)),

(iv) amend, modify, or eliminate this Section or any provision of this Agreement providing for consent or other action by all Lenders,

(v) amend, modify, or eliminate Section 3.1 or 3.2,

(vi) amend, modify, or eliminate Section 15.11,

(vii) other than as permitted by Section 15.11, release Agent's Lien in and to any of the Collateral,

(viii) amend, modify, or eliminate the definitions of "Required Lenders" or "Pro Rata Share",

(ix) contractually release or contractually subordinate any of Agent's Liens,

(x) other than in connection with a merger, liquidation, dissolution or sale of such Person expressly permitted by the terms hereof or the other Loan Documents, release any Borrower or any Guarantor from any obligation for the payment of money or consent to the assignment or transfer by any Borrower or any Guarantor of any of its rights or duties under this Agreement or the other Loan Documents,

(xi) amend, modify, or eliminate any of the provisions of Section 2.4(b)(i) or (ii) or Section 2.4(e) or (f), or

(xii) amend, modify, or eliminate any of the provisions of Section 13.1 with respect to assignments to, or participations with, Persons who are Loan Parties, Affiliates of a Loan Party, or Sponsor Affiliated Entities.

(b) No amendment, waiver, modification, or consent shall amend, modify, waive, or eliminate,

(i) the definition of, or any of the terms or provisions of, the Fee Letter, without the written consent of Agent and Borrowers (and shall not require the written consent of any of the Lenders),

(ii) any provision of Section 15 pertaining to Agent, or any other rights or duties of Agent under this Agreement or the other Loan Documents, without the written consent of Agent, Borrowers, and the Required Lenders;

(c) No amendment, waiver, modification, elimination, or consent shall, without written consent of Agent, Borrowers and the Supermajority Lenders, amend, modify, or eliminate the definition of Aggregate Borrowing Base, UK Borrowing Base, US Borrowing Base or any of the defined terms (including the definitions of Eligible Accounts or Eligible Rolling Stock Collateral) that are used in such definition to the extent that any such change results in more credit being made available to Borrowers based upon the Borrowing Base, but not otherwise, or the definition of Maximum Revolver Amount, US Maximum Revolver Amount, or UK Maximum Revolver Amount, or change Section 2.1(e);

(d) No amendment, waiver, modification, elimination, or consent shall amend, modify, or waive any provision of this Agreement or the other Loan Documents pertaining to Issuing Bank, or any other rights or duties of Issuing Bank under this Agreement or the other Loan Documents, without the written consent of Issuing Bank, Agent, Borrowers, and the Required Lenders;

(e) No amendment, waiver, modification, elimination, or consent shall amend, modify, or waive any provision of this Agreement or the other Loan Documents pertaining to Swing Lender, or any other rights or duties of Swing Lender under this Agreement or the other Loan Documents, without the written consent of Swing Lender, Agent, Borrowers, and the Required Lenders; and

(f) Anything in this Section 14.1 to the contrary notwithstanding, (i) any amendment, modification, elimination, waiver, consent, termination, or release of, or with respect to, any provision of this Agreement or any other Loan Document that relates only to the relationship of the Lender Group among themselves, and that does not affect the rights or obligations of Holdings or any Borrower, shall not require consent by or the agreement of any Loan Party, and (ii) any amendment, waiver, modification, elimination, or consent of or with respect to any provision of this Agreement or any other Loan Document may be entered into without the consent of, or over the objection of, any Defaulting Lender other than any of the matters governed by Section 14.1(a)(i) through (iii) that affect such Lender.

14.2 **Replacement of Certain Lenders.**

(a) If (i) any action to be taken by the Lender Group or Agent hereunder requires the consent, authorization, or agreement of all Lenders or all Lenders affected thereby and if such action has received the consent, authorization, or agreement of the Required Lenders but not of all Lenders or all Lenders affected thereby, or (ii) any Lender makes a claim for compensation under Section 16, then Borrowers or Agent, upon at least five (5) Business Days prior irrevocable notice, may permanently replace any Lender that failed to give its consent, authorization, or agreement (a "Non-Consenting Lender") or any Lender that made a claim for compensation (a "Tax Lender") with one or more Replacement Lenders, and the Non-Consenting Lender or Tax Lender, as applicable, shall have no right to refuse to be replaced hereunder. Such notice to replace the Non-Consenting Lender or Tax Lender, as applicable, shall specify an effective date for such replacement, which date shall not be later than fifteen (15) Business Days after the date such notice is given.

(b) Prior to the effective date of such replacement, the Non-Consenting Lender or Tax Lender, as applicable, and each Replacement Lender shall execute and deliver an Assignment and Acceptance, subject only to the Non-Consenting Lender or Tax Lender, as applicable, being repaid in full its share of the outstanding Obligations (without any premium or penalty of any kind whatsoever, but including (i) all interest, fees and other amounts that may be due in payable in respect thereof, (ii) an assumption of its Pro Rata Share of participations in the Letters of Credit, and (iii) Funding Losses). If the Non-Consenting Lender or Tax Lender, as applicable, shall refuse or fail to execute and deliver any such Assignment and Acceptance prior to the effective date of such replacement, Agent may, but shall not be required to, execute and deliver such Assignment and Acceptance in the name or and on behalf of the Non-Consenting Lender or Tax Lender, as applicable, and irrespective of whether Agent executes and delivers such Assignment and Acceptance, the Non-Consenting Lender or Tax Lender, as applicable, shall be deemed to have executed and delivered such Assignment and Acceptance. The replacement of any Non-Consenting Lender or Tax Lender, as applicable, shall be made in accordance with the terms of Section 13.1. Until such time as one or more Replacement Lenders shall have acquired all of the Obligations, the Commitments, and the other rights and obligations of the Non-Consenting Lender or Tax Lender, as applicable, hereunder and under the other Loan Documents, the Non-Consenting Lender or Tax Lender, as applicable, shall remain obligated to make the Non-Consenting Lender's or Tax Lender's, as applicable, Pro Rata Share of Revolving Loans and to purchase a participation in each Letter of Credit, in an amount equal to its Pro Rata Share of participations in such Letters of Credit.

14.3 **No Waivers; Cumulative Remedies.** No failure by Agent or any Lender to exercise any right, remedy, or option under this Agreement or any other Loan Document, or delay by Agent or any Lender in exercising the same, will operate as a waiver thereof. No waiver by Agent or any Lender will be effective unless it is in writing, and then only to the extent specifically stated. No waiver by Agent or any Lender on any occasion shall affect or diminish Agent's and each Lender's rights thereafter to require strict performance by Holdings, Intermediate Holdings, CP Holdings LLC, Borrowers, and the other Loan Parties of any provision of this Agreement. Agent's and each Lender's rights under this Agreement and the other Loan Documents will be cumulative and not exclusive of any other right or remedy that Agent or any Lender may have.

15. AGENT; UK SECURITY AGENT; THE LENDER GROUP.

15.1 **Appointment and Authorization of Agent and UK Security Agent**. Each Lender hereby designates and appoints Wells Fargo as its agent under this Agreement and the other Loan Documents and each Lender hereby irrevocably authorizes (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to designate, appoint, and authorize) Agent to execute and deliver each of the other Loan Documents on its behalf and to take such other action on its behalf under the provisions of this Agreement and each other Loan Document and to exercise such powers and perform such duties as are expressly delegated to Agent by the terms of this Agreement or any other Loan Document, together with such powers as are reasonably incidental thereto. Agent agrees to act as agent and security agent, as applicable, for and on behalf of the Lenders (and the Bank Product Providers), respectively on the conditions contained in this Section 15. Any provision to the contrary contained elsewhere in this Agreement or in any other Loan Document notwithstanding, neither Agent nor UK Security Agent shall have any duties or responsibilities, except those expressly set forth herein or in the other Loan Documents, nor shall Agent or UK Security Agent have or be deemed to have any fiduciary relationship with any Lender (or Bank Product Provider), and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against Agent or UK Security Agent. Without limiting the generality of the foregoing, the use of the term "agent" in this Agreement or the other Loan Documents with reference to Agent or UK Security Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only a representative relationship between independent contracting parties. Each Lender hereby further authorizes (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to authorize) Agent or UK Security Agent, as applicable, to act as the secured party under each of the Loan Documents that create a Lien on any item of Collateral. Except as expressly otherwise provided in this Agreement, Agent and UK Security Agent, as applicable, shall have and may use its sole discretion with respect to exercising or refraining from exercising any discretionary rights or taking or refraining from taking any actions that Agent or UK Security Agent expressly is entitled to take or assert under or pursuant to this Agreement and the other Loan Documents. Without limiting the generality of the foregoing, or of any other provision of the Loan Documents that provides rights or powers to Agent or UK Security Agent, Lenders agree that Agent or UK Security Agent shall have the right to exercise the following powers as long as this Agreement remains in effect: (a) maintain, in accordance with its customary business practices, ledgers and records reflecting the status of the Obligations, the Collateral, payments and proceeds of Collateral, and related matters, (b) execute or file any and all financing or similar statements or notices, amendments, renewals, supplements, documents, instruments, proofs of claim, notices and other written agreements with respect to the Loan Documents, or to take any other action with respect to any Collateral or Loan Documents which may be necessary to perfect, and maintain perfected, the security interests and Liens upon Collateral pursuant to the Loan Documents, (c) make Revolving Loans, for itself or on behalf of Lenders, as provided in the Loan Documents, (d) exclusively receive, apply, and distribute payments and proceeds of the Collateral as provided in the Loan Documents, (e) open and maintain such bank accounts and cash management arrangements as Agent deems necessary and appropriate in accordance with the Loan Documents for the foregoing purposes, (f) perform, exercise, and enforce any and all other rights and remedies of the Lender Group with respect to any Loan Party or its Subsidiaries, the Obligations, the Collateral, or otherwise related to any of same as provided in the Loan Documents, and (g) incur and pay such Lender Group Expenses as Agent or UK Security Agent may deem necessary or appropriate for the performance and fulfillment of its functions and powers pursuant to the Loan Documents.

15.2 **Delegation of Duties**. Agent and UK Security Agent may execute any of its duties under this Agreement or any other Loan Document by or through agents, employees or attorneys in fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. Neither Agent nor UK Security Agent shall be responsible for the negligence or misconduct of any agent or attorney in fact that it selects as long as such selection was made without gross negligence or willful misconduct.

15.3 **Liability of Agent**. None of the Agent-Related Persons shall (a) be liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby (except for its own gross negligence or willful misconduct), or (b) be responsible in any manner to any of the Lenders (or Bank Product Providers) for any recital, statement, representation or warranty made by any Loan Party or any of its Subsidiaries or Affiliates, or any officer or director thereof, contained in this Agreement or in any other Loan Document, or in any certificate, report, statement or other document referred to or provided for in, or received by Agent under or in connection with, this Agreement or any other Loan Document, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document, or for any failure of any Loan Party or its Subsidiaries or any other party to any Loan Document to perform its obligations hereunder or thereunder. No Agent-Related Person shall be under any obligation to any Lenders (or Bank Product Providers) to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the books and records or properties of any Loan Party or its Subsidiaries. No Agent-Related Person shall have any liability to any Lender, and Loan Party or any of their respective Affiliates if any request for a Loan, Letter of credit or other extension of credit was not authorized by the applicable Borrower. Neither Agent nor UK Security Agent shall be required to take any action that, in its opinion or in the opinion of its counsel, may expose it to liability or that is contrary to any Loan Document or applicable law or regulation.

15.4 **Reliance by Agent and UK Security Agent** . Agent and UK Security Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, telefacsimile or other electronic method of transmission, telex or telephone message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent, or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to Borrowers or counsel to any Lender), independent accountants and other experts selected by Agent. Agent and UK Security Agent shall each be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document unless Agent or UK Security Agent, as applicable, shall first receive such advice or concurrence of the Lenders as it deems appropriate and until such instructions are received, Agent or UK Security Agent, as applicable, shall act, or refrain from acting, as it deems advisable. If Agent or UK Security Agent, as applicable, so requests, it shall first be indemnified to its reasonable satisfaction by the Lenders (and, if it so elects, the Bank Product Providers) against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. Agent and UK Security Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request or consent of the Required Lenders and such request and any action taken or failure to act pursuant thereto shall be binding upon all of the Lenders (and Bank Product Providers).

15.5 **Notice of Default or Event of Default**. Neither Agent nor UK Security Agent shall be deemed to have knowledge or notice of the occurrence of any Default or Event of Default, except in the case of Agent with respect to defaults in the payment of principal, interest, fees, and expenses required to be paid to Agent for the account of the Lenders and, except with respect to Events of Default of which Agent has actual knowledge, unless Agent shall have received written notice from a Lender or Borrowers referring to this Agreement, describing such Default or Event of Default, and stating that such notice is a "notice of default." Agent promptly will notify the Lenders of its receipt of any such notice or of any Event of Default of which Agent has actual knowledge. If any Lender obtains actual knowledge of any Event of Default, such Lender promptly shall notify the other Lenders and Agent of such Event of Default. Each Lender shall be solely responsible for giving any notices to its Participants, if any. Subject to Section 15.4, Agent and UK Security Agent shall take such action with respect to such Default or Event of Default as may be requested by the Required Lenders in accordance with Section 9; provided, that unless and until Agent or UK Security Agent, as applicable, has received any such request, Agent or UK Security Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable.

15.6 **Credit Decision**. Each Lender (and Bank Product Provider) acknowledges that none of the Agent-Related Persons has made any representation or warranty to it, and that no act by any Agent-Related Person hereinafter taken, including any review of the affairs of any Loan Party and its Subsidiaries or Affiliates, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender (or Bank Product Provider). Each Lender represents (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to represent) to Agent and UK Security Agent that it has, independently and without reliance upon any Agent-Related Person and based on such due diligence, documents and information as it has deemed appropriate, made its own appraisal of, and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of each Borrower or any other Person party to a Loan Document, and all applicable bank regulatory laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to Borrowers. Each Lender also represents (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to represent) that it will, independently and without reliance upon any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of each Borrower or any other Person party to a Loan Document. Except for notices, reports, and other documents expressly herein required to be furnished to the Lenders by Agent or UK Security Agent, as applicable, Agent or UK Security Agent, as applicable, shall not have any duty or responsibility to provide any Lender (or Bank Product Provider) with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any Borrower or any other Person party to a Loan Document that may come into the possession of any of the Agent-Related Persons. Each Lender acknowledges (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to acknowledge) that Agent and UK Security Agent do not have any duty or responsibility, either initially or on a continuing basis (except to the extent, if any, that is expressly specified herein) to provide such Lender (or Bank Product Provider) with any credit or other information with respect to any Borrower, its Affiliates or any of their respective business, legal, financial or other affairs, and irrespective of whether such information came into Agent's or UK Security Agent's or its Affiliates' or representatives' possession before or after the date on which such Lender became a party to this Agreement (or such Bank Product Provider entered into a Bank Product Agreement).

15.7 **Costs and Expenses; Indemnification**. Agent and UK Security Agent may incur and pay Lender Group Expenses to the extent Agent or UK Security Agent, as applicable, reasonably deems necessary or appropriate for the performance and fulfillment of its functions, powers, and obligations pursuant to the Loan Documents, including court costs, reasonable attorneys' fees and expenses, fees and expenses of financial accountants, advisors, consultants, and appraisers, costs of collection by outside collection agencies, auctioneer fees and expenses, and costs of security guards or insurance premiums paid to maintain the Collateral, whether or not Borrowers are obligated to reimburse Agent, UK Security Agent or Lenders for such expenses pursuant to this Agreement or otherwise. Agent and UK Security Agent are authorized and directed to deduct and retain sufficient amounts from payments or proceeds of the Collateral received by Agent or UK Security Agent, as applicable, to reimburse Agent or UK Security Agent, as applicable, for such out-of-pocket costs and expenses prior to the distribution of any amounts to Lenders (or Bank Product Providers). In the event Agent or UK Security Agent is not reimbursed for such costs and expenses by the Loan Parties and their Subsidiaries, each Lender hereby agrees that it is and shall be obligated to pay to Agent or UK Security Agent, as applicable, such Lender's ratable share thereof. Whether or not the transactions contemplated hereby are consummated, each of the Lenders, on a ratable basis, shall indemnify and defend the Agent-Related Persons (to the extent not reimbursed by or on behalf of Borrowers and without limiting the obligation of Borrowers to do so) from and against any and all Indemnified Liabilities; provided, that no Lender shall be liable for the payment to any Agent-Related Person of any portion of such Indemnified Liabilities resulting solely from such Person's gross negligence or willful misconduct nor shall any Lender be liable for the obligations of any Defaulting Lender in failing to make a Revolving Loan or other extension of credit hereunder. Without limitation of the foregoing, each Lender shall reimburse Agent and/or UK Security Agent upon demand for such Lender's ratable share of any costs or out of pocket expenses (including attorneys, accountants, advisors, and consultants fees and expenses) incurred by Agent or UK Security Agent, as applicable, in connection with the preparation, execution, delivery, administration, modification, amendment, or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement or any other Loan Document to the extent that Agent or UK Security Agent, as applicable,. is not reimbursed for such expenses by or on behalf of Borrowers. The undertaking in this Section shall survive the payment of all Obligations hereunder and the resignation or replacement of Agent or UK Security Agent, as applicable.

15.8 **Agent in Individual Capacity**. Wells Fargo and its Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, provide Bank Products to, acquire Equity Interests in, and generally engage in any kind of banking, trust, financial advisory, underwriting, or other business with any Loan Party and its Subsidiaries and Affiliates and any other Person party to any Loan Document as though Wells Fargo were not Agent or UK Security Agent hereunder, and, in each case, without notice to or consent of the other members of the Lender Group. The other members of the Lender Group acknowledge (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to acknowledge) that, pursuant to such activities, Wells Fargo or its Affiliates may receive information regarding a Loan Party or its Affiliates or any other Person party to any Loan Documents that is subject to confidentiality obligations in favor of such Loan Party or such other Person and that prohibit the disclosure of such information to the Lenders (or Bank Product Providers), and the Lenders acknowledge (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to acknowledge) that, in such circumstances (and in the absence of a waiver of such confidentiality obligations, which waiver Agent will use its reasonable best efforts to obtain), neither Agent nor UK Security Agent, as applicable, shall be under any obligation to provide such information to them. The terms "Lender" and "Lenders" include Wells Fargo in its individual capacity.

15.9 **Successor Agent and Successor UK Security Agent**. Agent and UK Security Agent may resign as Agent and UK Security Agent respectively upon 30 days (ten days if an Event of Default has occurred and is continuing) prior written notice to the Lenders (unless such notice is waived by the Required Lenders) and Borrowers (unless such notice is waived by Borrowers or a Default or Event of Default has occurred and is continuing) and without any notice to the Bank Product Providers. If Agent or UK Security Agent resigns under this Agreement, the Required Lenders shall be entitled, with (so long as no Event of Default has occurred and is continuing) the consent of Borrowers (such consent not to be unreasonably withheld, delayed, or conditioned), appoint a successor Agent or UK Security Agent, as applicable, for the Lenders (and the Bank Product Providers). If, at the time that Agent's resignation is effective, it is acting as Issuing Bank or Swing Lender, such resignation shall also operate to effectuate its resignation as Issuing Bank or Swing Lender, as applicable, and it shall automatically be relieved of any further obligation to issue Letters of Credit, or to make Swing Loans. If no successor Agent or UK Security Agent is appointed prior to the effective date of the resignation of Agent or UK Security Agent, as applicable, Agent or UK Security Agent, as applicable, may appoint, after consulting with the Lenders and Borrowers, a successor Agent or UK Security Agent, as applicable. If Agent or UK Security Agent, as applicable, has materially breached or failed to perform any material provision of this Agreement or of applicable law, the Required Lenders may agree in writing to remove and replace Agent or UK Security Agent, as applicable, with a successor Agent or a successor UK Security Agent, as applicable, from among the Lenders with (so long as no Event of Default has occurred and is continuing) the consent of Borrowers (such consent not to be unreasonably withheld, delayed, or conditioned). In any such event, upon the acceptance of its appointment as successor Agent or successor UK Security Agent, as applicable, hereunder, such successor Agent or successor UK Security Agent, as applicable, shall succeed to all the rights, powers, and duties of the retiring Agent or retiring UK Security Agent, as applicable, and the term "Agent" or "UK Security Agent" shall mean such successor Agent or successor UK Security Agent and the retiring Agent's or UK Security Agent's appointment, powers, and duties as Agent shall be terminated. After any retiring Agent's or UK Security Agent's resignation hereunder as Agent or UK Security Agent, as applicable, the provisions of this Section 15 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement or UK Security Agent under any UK Security Document. If no successor Agent or UK Security Agent has accepted appointment as Agent or UK Security Agent by the date which is thirty days following a retiring Agent's or retiring UK Security Agent's notice of resignation, the retiring Agent's or retiring UK Security Agent's resignation shall nevertheless thereupon become effective and the Lenders shall perform all of the duties of Agent or UK Security Agent hereunder until such time, if any, as the Lenders appoint a successor Agent or UK Security Agent as provided for above.

15.10 **Lender in Individual Capacity**. Any Lender and its respective Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, provide Bank Products to, acquire Equity Interests in and generally engage in any kind of banking, trust, financial advisory, underwriting, or other business with any Loan Party and its Subsidiaries and Affiliates and any other Person party to any Loan Documents as though such Lender were not a Lender hereunder without notice to or consent of the other members of the Lender Group (or the Bank Product Providers). The other members of the Lender Group acknowledge (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to acknowledge) that, pursuant to such activities, such Lender and its respective Affiliates may receive information regarding a Loan Party or its Affiliates or any other Person party to any Loan Documents that is subject to confidentiality obligations in favor of such Loan Party or such other Person and that prohibit the disclosure of such information to the Lenders, and the Lenders acknowledge (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to acknowledge) that, in such circumstances (and in the absence of a waiver of such confidentiality obligations, which waiver such Lender will use its reasonable best efforts to obtain), such Lender shall not be under any obligation to provide such information to them.

15.11 **Collateral Matters**.

(a) The Lenders hereby irrevocably authorize (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to authorize) Agent and UK Security Agent to release any Lien on any Collateral (and Agent's execution of any agreement to evidence such release) (i) upon the termination of the Commitments and payment and satisfaction in full by the Loan Parties and their Subsidiaries of all of the Obligations, (ii) constituting property being sold or Disposed of if a release is required or desirable in connection therewith and if Borrowers certify to Agent or UK Security Agent, as applicable, that the sale or disposition is permitted under Section 6.4 (and Agent and/or UK Security Agent may rely conclusively on any such certificate, without further inquiry), (iii) constituting property in which no Loan Party or any of its Subsidiaries owned any interest at the time the relevant Lien was granted nor at any time thereafter, (iv) constituting property leased or licensed to any Loan Party or its Subsidiaries under a lease or license that has expired or is terminated in a transaction permitted under this Agreement, or (v) in connection with a credit bid or purchase authorized under this Section 15.11. The Loan Parties and the Lenders hereby irrevocably authorize (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to authorize) Agent, based upon the instruction of the Required Lenders, to (a) consent to the sale of, credit bid, or purchase (either directly or indirectly through one or more entities) all or any portion of the Collateral at any sale thereof conducted under the provisions of the Bankruptcy Code or any other Debtor Relief Law, including Section 363 of the Bankruptcy Code, (b)credit bid or purchase (either directly or indirectly through one or more entities) all or any portion of the Collateral at any sale or other disposition thereof conducted under the provisions of the Code, including pursuant to Sections 9-610 or 9-620 of the Code, or (c) credit bid or purchase (either directly or indirectly through one or more entities) all or any portion of the Collateral at any other sale or foreclosure conducted or consented to by Agent in accordance with applicable law in any judicial action or proceeding or by the exercise of any legal or equitable remedy. In connection with any such credit bid or purchase, (i) the Obligations owed to the Lenders and the Bank Product Providers shall be entitled to be, and shall be, credit bid on a ratable basis (with Obligations with respect to contingent or unliquidated claims being estimated for such purpose if the fixing or liquidation thereof would not impair or unduly delay the ability of Agent to credit bid or purchase at such sale or other disposition of the Collateral and, if such contingent or unliquidated claims cannot be estimated without impairing or unduly delaying the ability of Agent to credit bid at such sale or other disposition, then such claims shall be disregarded, not credit bid, and not entitled to any interest in the Collateral that is the subject of such credit bid or purchase) and the Lenders and the Bank Product Providers whose Obligations are credit bid shall be entitled to receive interests (ratably based upon the proportion of their Obligations credit bid in relation to the aggregate amount of Obligations so credit bid) in the Collateral that is the subject of such credit bid or purchase (or in the Equity Interests of any entities that are used to consummate such credit bid or purchase), and (ii) Agent, based upon the instruction of the Required Lenders, may accept non-cash consideration, including debt and equity securities issued by any entities used to consummate such credit bid or purchase and in connection therewith Agent may reduce the Obligations owed to the Lenders and the Bank Product Providers (ratably based upon the proportion of their Obligations credit bid in relation to the aggregate amount of Obligations so credit bid) based upon the value of such non-cash consideration; provided, that Bank Product Obligations not entitled to the application set forth in Section 2.4(b)(iii) shall not be entitled to be, and shall not be, credit bid, or used in the calculation of the ratable interest of the Lenders and Bank Product Providers in the Obligations which are credit bid. Except as provided above, Agent will not execute and deliver a release of any Lien on any Collateral without the prior written authorization of (y) if the release is of all or substantially all of the Collateral, all of the Lenders (without requiring the authorization of the Bank Product Providers), or (z) otherwise, the Required Lenders (without requiring the authorization of the Bank Product Providers). Upon request by Agent or Borrowers at any time, the Lenders will (and if so requested, the Bank Product Providers will) confirm in writing Agent's authority to release any such Liens on particular types or items of Collateral pursuant to this Section 15.11; provided, that (1) anything to the contrary contained in any of the Loan Documents notwithstanding, Agent shall not be required to execute any document or take any action necessary to evidence such release on terms that, in Agent's opinion, could expose Agent to liability or create any obligation or entail any consequence other than the release of such Lien without recourse, representation, or warranty, and (2) such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those expressly released) upon (or obligations of Borrowers in respect of) any and all interests retained by any Borrower, including, the proceeds of any sale, all of which shall continue to constitute part of the Collateral. Each Lender further hereby irrevocably authorize (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to irrevocably authorize) Agent, at its option and in its sole discretion, to subordinate (by contract or otherwise) any Lien granted to or held by Agent on any property under any Loan Document (a) to the holder of any Permitted Lien on such property if such Permitted Lien secures purchase money Indebtedness (including Capitalized Lease Obligations) which constitute Indebtedness permitted under Section 6.1 and (b) to the extent Agent has the authority under this Section 15.11 to release its Lien on such property.

(b) Neither Agent nor UK Security Agent shall have any obligation whatsoever to any of the Lenders (or the Bank Product Providers) (i) to verify or assure that the Collateral exists or is owned by a Loan Party or any of its Subsidiaries or is cared for, protected, or insured or has been encumbered, (ii) to verify or assure that the relevant Liens have been properly or sufficiently or lawfully created, perfected, protected, or enforced or are entitled to any particular priority, (iii) to verify or assure that any particular items of Collateral meet the eligibility criteria applicable in respect thereof, (iv) to impose, maintain, increase, reduce, implement, or eliminate any particular reserve hereunder or to determine whether the amount of any reserve is appropriate or not, or (v) to exercise at all or in any particular manner or under any duty of care, disclosure or fidelity, or to continue exercising, any of the rights, authorities and powers granted or available to Agent or UK Security Agent pursuant to any of the Loan Documents, it being understood and agreed that in respect of the Collateral, or any act, omission, or event related thereto, subject to the terms and conditions contained herein, Agent may act in any manner it may deem appropriate, in its sole discretion given Agent's own interest in the Collateral in its capacity as one of the Lenders and that Agent and UK Security Agent shall have no other duty or liability whatsoever to any Lender (or Bank Product Provider) as to any of the foregoing, except as otherwise expressly provided herein.

15.12 **Restrictions on Actions by Lenders; Sharing of Payments.**

(a) Each of the Lenders agrees that it shall not, without the express written consent of Agent, and that it shall, to the extent it is lawfully entitled to do so, upon the written request of Agent, set off against the Obligations, any amounts owing by such Lender to Holdings or its Subsidiaries or any deposit accounts of Holdings or its Subsidiaries now or hereafter maintained with such Lender. Each of the Lenders further agrees that it shall not, unless specifically requested to do so in writing by Agent, take or cause to be taken any action, including, the commencement of any legal or equitable proceedings to enforce any Loan Document against any Borrower or any Guarantor or to foreclose any Lien on, or otherwise enforce any security interest in, any of the Collateral.

(b) If, at any time or times any Lender shall receive (i) by payment, foreclosure, setoff, or otherwise, any proceeds of Collateral or any payments with respect to the Obligations, except for any such proceeds or payments received by such Lender from Agent pursuant to the terms of this Agreement, or (ii) payments from Borrowers or Agent in excess of such Lender's Pro Rata Share of all such distributions by Agent, such Lender promptly shall (A) turn the same over to Agent, in kind, and with such endorsements as may be required to negotiate the same to Agent, or in immediately available funds, as applicable, for the account of all of the Lenders and for application to the Obligations in accordance with the applicable provisions of this Agreement, or (B) purchase, without recourse or warranty, an undivided interest and participation in the Obligations owed to the other Lenders so that such excess payment received shall be applied ratably as among the Lenders in accordance with their Pro Rata Shares; provided, that to the extent that such excess payment received by the purchasing party is thereafter recovered from it, those purchases of participations shall be rescinded in whole or in part, as applicable, and the applicable portion of the purchase price paid therefor shall be returned to such purchasing party, but without interest except to the extent that such purchasing party is required to pay interest in connection with the recovery of the excess payment.

15.13 **Agency for Perfection.** Agent hereby appoints each other Lender (and each Bank Product Provider) as its agent (and each Lender hereby accepts (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to accept) such appointment) for the purpose of perfecting Agent's Liens in assets which, in accordance with Article 8 or Article 9, as applicable, of the Code can be perfected by possession or control. Should any Lender obtain possession or control of any such Collateral, such Lender shall notify Agent thereof, and, promptly upon Agent's request therefor shall deliver possession or control of such Collateral to Agent or in accordance with Agent's instructions.

15.14 **Payments by Agent to the Lenders.** All payments to be made by Agent to the Lenders (or Bank Product Providers) shall be made by bank wire transfer of immediately available funds pursuant to such wire transfer instructions as each party may designate for itself by written notice to Agent. Concurrently with each such payment, Agent shall identify whether such payment (or any portion thereof) represents principal, premium, fees, or interest of the Obligations.

15.15 **Concerning the Collateral and Related Loan Documents.** Each member of the Lender Group authorizes and directs Agent and UK Security Agent to enter into this Agreement and the other Loan Documents. Each member of the Lender Group agrees (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to agree) that any action taken by Agent and UK Security Agent in accordance with the terms of this Agreement or the other Loan Documents relating to the Collateral and the exercise by Agent and UK Security Agent of its powers set forth therein or herein, together with such other powers that are reasonably incidental thereto, shall be binding upon all of the Lenders (and such Bank Product Provider).

15.16 **Field Examination Reports; Confidentiality; Disclaimers by Lenders; Other Reports and Information.** By becoming a party to this Agreement, each Lender:

(a) is deemed to have requested that Agent furnish such Lender, promptly after it becomes available, a copy of each field examination report respecting Holdings or its Subsidiaries (each, a "Report") prepared by or at the request of Agent, and Agent shall so furnish each Lender with such Reports,

(b) expressly agrees and acknowledges that Agent does not (i) make any representation or warranty as to the accuracy of any Report, and (ii) shall not be liable for any information contained in any Report,

(c) expressly agrees and acknowledges that the Reports are not comprehensive audits or examinations, that Agent or other party performing any field examination will inspect only specific information regarding Holdings and its Subsidiaries and will rely significantly upon Holdings' and its Subsidiaries' books and records, as well as on representations of Borrowers' personnel,

(d) agrees to keep all Reports and other material, non-public information regarding Holdings and its Subsidiaries and their operations, assets, and existing and contemplated business plans in a confidential manner in accordance with Section 17.9, and

(e) without limiting the generality of any other indemnification provision contained in this Agreement, agrees: (i) to hold Agent and any other Lender preparing a Report harmless from any action the indemnifying Lender may take or fail to take or any conclusion the indemnifying Lender may reach or draw from any Report in connection with any loans or other credit accommodations that the indemnifying Lender has made or may make to Borrowers, or the indemnifying Lender's participation in, or the indemnifying Lender's purchase of, a loan or loans of Borrowers, and (ii) to pay and protect, and indemnify, defend and hold Agent, and any such other Lender preparing a Report harmless from and against, the claims, actions, proceedings, damages, costs, expenses, and other amounts (including, reasonable attorneys' fees and costs) incurred by Agent and any such other Lender preparing a Report as the direct or indirect result of any third parties who might obtain all or part of any Report through the indemnifying Lender.

(f) In addition to the foregoing, (x) any Lender may from time to time request of Agent in writing that Agent provide to such Lender a copy of any report or document provided by Holdings or its Subsidiaries to Agent that has not been contemporaneously provided by Holdings or such Subsidiary to such Lender, and, upon receipt of such request, Agent promptly shall provide a copy of same to such Lender, (y) to the extent that Agent is entitled, under any provision of the Loan Documents, to request additional reports or information from Holdings or its Subsidiaries, any Lender may, from time to time, reasonably request Agent to exercise such right as specified in such Lender's notice to Agent, whereupon Agent promptly shall request of Borrowers the additional reports or information reasonably specified by such Lender, and, upon receipt thereof from Holdings or such Subsidiary, Agent promptly shall provide a copy of same to such Lender, and (z) any time that Agent renders to Borrowers a statement regarding the Loan Account, Agent shall send a copy of such statement to each Lender.

15.17 **Several Obligations; No Liability.** Notwithstanding that certain of the Loan Documents now or hereafter may have been or will be executed only by or in favor of Agent or UK Security Agent in its capacity as such, and not by or in favor of the Lenders, any and all obligations on the part of Agent (if any) to make any credit available hereunder shall constitute the several (and not joint) obligations of the respective Lenders on a ratable basis, according to their respective Commitments, to make an amount of such credit not to exceed, in principal amount, at any one time outstanding, the amount of their respective Commitments. Nothing contained herein shall confer upon any Lender any interest in, or subject any Lender to any liability for, or in respect of, the business, assets, profits, losses, or liabilities of any other Lender. Each Lender shall be solely responsible for notifying its Participants of any matters relating to the Loan Documents to the extent any such notice may be required, and no Lender shall have any obligation, duty, or liability to any Participant of any other Lender. Except as provided in Section 15.7, no member of the Lender Group shall have any liability for the acts of any other member of the Lender Group. No Lender shall be responsible to any Borrower or any other Person for any failure by any other Lender (or Bank Product Provider) to fulfill its obligations to make credit available hereunder, nor to advance for such Lender (or Bank Product Provider) or on its behalf, nor to take any other action on behalf of such Lender (or Bank Product Provider) hereunder or in connection with the financing contemplated herein.

15.18 **UK Security Agent as security trustee for UK Security Documents**. For the purposes of any Liens or Collateral created under the UK Security Documents, the following additional provisions shall apply, in addition to the provisions set out in Section 15 or otherwise hereunder.

(a) In this Section 15.18, the following expressions have the following meanings:

"Appointee" means any receiver, administrator or other insolvency officer appointed in respect of any Loan Party or its assets.

"Charged Property" means the assets of the Loan Parties subject to a security interest under the UK Security Documents.

"Delegate" means any delegate, agent, attorney or co-trustee appointed by UK Security Agent (in its capacity as security trustee).

"Secured Parties" means UK Security Agent, the Lenders and the Bank Product Providers.

(b) The Secured Parties appoint UK Security Agent to hold the security interests constituted by the UK Security Documents on trust for the Secured Parties on the terms of the Loan Documents and UK Security Agent accepts that appointment.

(c) UK Security Agent, its subsidiaries and associated companies may each retain for its own account and benefit any fee, remuneration and profits paid to it in connection with (i) its activities under the Loan Documents; and (ii) its engagement in any kind of banking or other business with any Loan Party.

(d) Nothing in this Agreement constitutes UK Security Agent as a trustee or fiduciary of, nor shall UK Security Agent have any duty or responsibility to, any Loan Party.

(e) UK Security Agent shall have no duties or obligations to any other Person except for those which are expressly specified in the Loan Documents or mandatorily required by applicable law.

(f) UK Security Agent may appoint one or more Delegates on such terms (which may include the power to sub-delegate) and subject to such conditions as it thinks fit, to exercise and perform all or any of the duties, rights, powers and discretions vested in it by the UK Security Documents and shall not be obliged to supervise any Delegate or be responsible to any person for any loss incurred by reason of any act, omission, misconduct or default on the part of any Delegate.

(g) UK Security Agent may (whether for the purpose of complying with any law or regulation of any overseas jurisdiction, or for any other reason) appoint (and subsequently remove) any person to act jointly with UK Security Agent either as a separate trustee or as a co-trustee on such terms and subject to such conditions as UK Security Agent thinks fit and with such of the duties, rights, powers and discretions vested in UK Security Agent by the UK Security Documents as may be conferred by the instrument of appointment of that person.

(h) UK Security Agent shall notify the Lenders of the appointment of each Appointee (other than a Delegate).

(i) UK Security Agent may pay reasonable remuneration to any Delegate or Appointee, together with any costs and expenses (including legal fees) reasonably incurred by the Delegate or Appointee in connection with its appointment. All such remuneration, costs and expenses shall be treated, for the purposes of this Agreement and any Fee Letter, as paid or incurred by UK Security Agent.

(j) Each Delegate and each Appointee shall have every benefit, right, power and discretion and the benefit of every exculpation (together "Rights") of UK Security Agent (in its capacity as security trustee) under the UK Security Documents, and each reference to UK Security Agent (where the context requires that such reference is to UK Security Agent in its capacity as security trustee) in the provisions of the UK Security Documents which confer Rights shall be deemed to include a reference to each Delegate and each Appointee.

(k) Each Secured Party confirms its approval of the UK Security Documents and authorizes and instructs UK Security Agent: (i) to execute and deliver the UK Security Documents; (ii) to exercise the rights, powers and discretions given to UK Security Agent (in its capacity as security trustee) under or in connection with the UK Security Documents together with any other incidental rights, powers and discretions; and (iii) to give any authorizations and confirmations to be given by UK Security Agent (in its capacity as security trustee) on behalf of the Secured Parties under the UK Security Documents.

(l) UK Security Agent may accept without inquiry the title (if any) which any person may have to the Charged Property.

(m) Each other Secured Party confirms that it does not wish to be registered as a joint proprietor of any security interest constituted by a UK Security Document and accordingly authorizes: (a) UK Security Agent to hold such security interest in its sole name (or in the name of any Delegate) as trustee for the Secured Parties; and (b) the Land Registry (or other relevant registry) to register UK Security Agent (or any Delegate or Appointee) as a sole proprietor of such security interest.

(n) Except to the extent that a UK Security Document otherwise requires, any moneys which UK Security Agent receives under or pursuant to a UK Security Document may be: (a) invested in any investments which UK Security Agent selects and which are authorized by applicable law; or (b) placed on deposit at any bank or institution (including UK Security Agent) on terms that UK Security Agent thinks fit, in each case in the name or under the control of UK Security Agent, and UK Security Agent shall hold those moneys, together with any accrued income (net of any applicable Tax) to the order of the Lenders, and shall pay them to the Lenders on demand.

(o) On a disposal of any of the Charged Property which is permitted under the Loan Documents, UK Security Agent shall (at the cost of the Loan Parties) execute any release of the UK Security Documents or other claim over that Charged Property and issue any certificates of non-crystallisation of floating charges that may be required or take any other action that UK Security Agent considers desirable.

(p) UK Security Agent shall not be liable for:

(i) any defect in or failure of the title (if any) which any person may have to any assets over which security is intended to be created by a UK Security Document;

(ii) any loss resulting from the investment or deposit at any bank of moneys which it invests or deposits in a manner permitted by the Loan Documents;

(iii) the exercise of, or the failure to exercise, any right, power or discretion given to it by or in connection with any Loan Document or any other agreement, arrangement or document entered into, or executed in anticipation of, under or in connection with, any Loan Document; or

(iv) any shortfall which arises on enforcing a UK Security Document.

(q) UK Security Agent shall not be obligated to:

(i) obtain any authorization or environmental permit in respect of any of the Charged Property or a UK Security Document;

(ii) hold in its own possession a UK Security Document, title deed or other document relating to the Charged Property or a UK Security Document;

(iii) perfect, protect, register, make any filing or give any notice in respect of a UK Security Document (or the order of ranking of a UK Security Document), unless that failure arises directly from its own gross negligence or willful misconduct; or

(iv) require any further assurances in relation to a UK Security Document.

(r) In respect of any UK Security Document, UK Security Agent shall not be obligated to: (i) insure, or require any other person to insure, the Charged Property; or (ii) make any enquiry or conduct any investigation into the legality, validity, effectiveness, adequacy or enforceability of any insurance existing over such Charged Property.

(s) In respect of any UK Security Document, UK Security Agent shall not have any obligation or duty to any person for any loss suffered as a result of: (i) the lack or inadequacy of any insurance; or (ii) the failure of UK Security Agent to notify the insurers of any material fact relating to the risk assumed by them, or of any other information of any kind, unless Required Lenders have requested it to do so in writing and UK Security Agent has failed to do so within fourteen (14) days after receipt of that request.

(t) Every appointment of a successor UK Security Agent under a UK Security Document shall be by deed.

(u) Section 1 of the Trustee Act 2000 (UK) shall not apply to the duty of UK Security Agent in relation to the trusts constituted by this Agreement.

(v) In the case of any conflict between the provisions of this Agreement and those of the Trustee Act 1925 (UK) or the Trustee Act 2000 (UK), the provisions of this Agreement shall prevail to the extent allowed by law, and shall constitute a restriction or exclusion for the purposes of the Trustee Act 2000 (UK).

(w) The rights, powers and discretions conferred upon UK Security Agent by this Agreement shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in UK Security Agent by any other Loan Document by general law or otherwise.

(x) The perpetuity period under the rule against perpetuities if applicable to this Agreement and any UK Security Document shall be 80 years from the date of this Agreement.

15.19 **Arranger Provisions**. The Lead Arranger, in such capacity, shall not have any right, power, obligation, liability, responsibility, or duty under this Agreement other than those applicable to it in its capacity as a Lender, as Agent, as Swing Lender, or as Issuing Bank, as applicable. Without limiting the foregoing, the Lead Arranger in such capacity, shall not have or be deemed to have any fiduciary relationship with any Lender or any Loan Party. Each Lender, Agent, Swing Lender, Issuing Bank, and each Loan Party acknowledges that it has not relied, and will not rely, on the Lead Arranger in deciding to enter into this Agreement or in taking or not taking action hereunder. The Lead Arranger, in such capacity, shall be entitled to resign at any time by giving notice to Agent and Borrowers.

16. **TAXES.**

The provisions of Section 16.5 shall apply in respect of any Loan made to a UK Borrower and accordingly Sections 16.1 to 16.4 shall not apply to any such Loan or any payments thereunder. Each party's obligations under this Section 16 shall survive the resignation or replacement of the Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

16.1 **Payments**. All payments made by any Loan Party under any Loan Document will be made free and clear of, and without deduction or withholding for, any Taxes, except as otherwise required by applicable law, and in the event any deduction or withholding of Taxes is required (as determined in the good faith discretion of the applicable Withholding Agent), the applicable Loan Party shall make the requisite withholding, promptly pay over to the applicable Governmental Authority the withheld Tax, and furnish to Agent as promptly as possible after the date the payment of any such Tax is due pursuant to applicable law, certified copies of Tax receipts evidencing such payment by the Loan Parties. Furthermore, if any such Tax is an Indemnified Tax or an Indemnified Tax is so levied or imposed, the Loan Parties agree to pay the full amount of such Indemnified Tax and such additional amounts as may be necessary so that every payment of all amounts due under this Agreement, any note, or Loan Document, including any amount paid pursuant to this Section 16.1 after withholding or deduction for or on account of any Indemnified Taxes, will not be less than the amount provided for herein. The Loan Parties will promptly pay any Other Taxes or reimburse Agent for such Other Taxes upon Agent's demand. The Loan Parties shall jointly and severally indemnify each Indemnified Person (as defined in Section 10.3) (collectively a "Tax Indemnitee") for the full amount of Indemnified Taxes arising in connection with this Agreement or any other Loan Document or breach thereof by any Loan Party (including any Indemnified Taxes imposed or asserted on, or attributable to, amounts payable under this Section 16) imposed on, or paid by, such Tax Indemnitee and all reasonable costs and expenses related thereto, as and when they are incurred and irrespective of whether suit is brought, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority (other than Indemnified Taxes and additional amounts that a court of competent jurisdiction finally determines to have resulted from the gross negligence or willful misconduct of such Tax Indemnitee). The obligations of the Loan Parties under this Section 16 shall survive the termination of this Agreement, the resignation and replacement of Agent, and the repayment of the Obligations.

16.2 **Exemptions.**

(a) If a Lender or Participant is entitled to claim an exemption or reduction from United States withholding tax, such Lender or Participant agrees with and in favor of Agent, to deliver to Agent (or, in the case of a Participant, to the Lender granting the participation only) and the Administrative Borrower on behalf of all Borrowers one of the following (as well as such other documentation prescribed by applicable law or reasonably requested by Borrowers or the Agent as will enable the Borrowers or the Agent to determine whether or not such Lender or Participant is subject to backup withholding or information reporting requirements) before receiving its first payment under this Agreement and at the time or times reasonably requested as will permit such payments to be made without withholding or at a reduced rate of withholding:

(i) if such Lender or Participant is entitled to claim an exemption from United States withholding tax pursuant to the portfolio interest exception, (A) a statement of the Lender or Participant, signed under penalty of perjury, that it is not a (I) a "bank" as described in Section 881(c)(3)(A) of the IRC, (II) a 10% shareholder of Administrative Borrower (within the meaning of Section 871(h)(3)(B) of the IRC), or (III) a controlled foreign corporation related to Borrowers within the meaning of Section 864(d)(4) of the IRC, and (B) a properly completed and executed IRS Form W-8BEN, Form W-8BEN-E or Form W-8IMY (with proper attachments as applicable);

(ii) if such Lender or Participant is entitled to claim an exemption from, or a reduction of, withholding tax under a United States tax treaty, a properly completed and executed copy of IRS Form W-8BEN or Form W-8BEN-E, as applicable;

(iii) if such Lender or Participant is entitled to claim that interest paid under this Agreement is exempt from United States withholding tax because it is effectively connected with a United States trade or business of such Lender, a properly completed and executed copy of IRS Form W-8ECI;

(iv) if such Lender or Participant is entitled to claim that interest paid under this Agreement is exempt from United States withholding tax because such Lender or Participant serves as an intermediary, a properly completed and executed copy of IRS Form W-8IMY (including a withholding statement and copies of the tax certification documentation for its beneficial owner(s) of the income paid to the intermediary, if required based on its status provided on the Form W-8IMY); or

(v) a properly completed and executed copy of any other form or forms, including IRS Form W-9, as may be required under the IRC or other laws of the United States as a condition to exemption from, or reduction of, United States withholding or backup withholding tax.

(b) Each Lender or Participant shall provide new forms (or successor forms) upon the expiration or obsolescence of any previously delivered forms and to promptly notify Agent and Administrative Borrower (or, in the case of a Participant, to the Lender granting the participation only) of any change in circumstances which would modify or render invalid any claimed exemption or reduction.

(c) If a Lender or Participant claims an exemption from withholding tax in a jurisdiction other than the United States, such Lender or such Participant agrees with and in favor of Agent and Borrowers, to deliver to Agent and Administrative Borrower (or, in the case of a Participant, to the Lender granting the participation only) any such form or forms, as may be required under the laws of such jurisdiction as a condition to exemption from, or reduction of, foreign withholding or backup withholding tax before receiving its first payment under this Agreement, and from time to time thereafter upon the reasonable request of the Agent or Borrowers, but only if such Lender or such Participant is legally able to deliver such forms, or the providing of or delivery of such forms in the Lender's reasonable judgment would not subject such Lender to any material unreimbursed cost or expense or materially prejudice the legal or commercial position of such Lender (or its Affiliates); provided, further, that nothing in this Section 16.2(c) shall require a Lender or Participant to disclose any information that it deems to be confidential (including its tax returns). Each Lender and each Participant shall provide new forms (or successor forms) upon the expiration or obsolescence of any previously delivered forms and to promptly notify Agent and Administrative Borrower (or, in the case of a Participant, to the Lender granting the participation only) of any change in circumstances which would modify or render invalid any claimed exemption or reduction.

(d) If a Lender or Participant claims exemption from, or reduction of, withholding tax and such Lender or Participant sells, assigns, grants a participation in, or otherwise transfers all or part of the Obligations of Borrowers to such Lender or Participant, such Lender or Participant agrees to notify Agent and Administrative Borrower (or, in the case of a sale of a participation interest, to the Lender granting the participation only) of the percentage amount in which it is no longer the beneficial owner of Obligations of Borrowers to such Lender or Participant. To the extent of such percentage amount, Agent and Administrative Borrower will treat such Lender's or such Participant's documentation provided pursuant to Section 16.2(a) or 16.2(c) as no longer valid. With respect to such percentage amount, such Participant or Assignee may provide new documentation, pursuant to Section 16.2(a) or 16.2(c), if applicable. Borrowers agree that each Participant shall be entitled to the benefits of this Section 16 with respect to its participation in any portion of the Commitments and the Obligations so long as such Participant complies with the obligations set forth in this Section 16 with respect thereto.

(e) If a payment made to a Lender under any Loan Document would be subject to US federal withholding tax imposed by FATCA if such Lender were to fail to comply with the applicable due diligence and reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the IRC, as applicable), such Lender shall deliver to Agent or the Administrative Borrower(or, in the case of a Participant, to the Lender granting the participation only) at the time or times prescribed by law and at such time or times reasonably requested by Agent or Borrowers (or, in the case of a Participant, the Lender granting the participation) such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the IRC) and such additional documentation reasonably requested by Agent or Borrowers (or, in the case of a Participant, the Lender granting the participation) as may be necessary for Agent or Borrowers to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (e), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

16.3 **Reductions.**

(a) If a Lender or a Participant is subject to an applicable withholding tax, Agent (or, in the case of a Participant, the Lender granting the participation) may withhold from any payment to such Lender or such Participant an amount equivalent to the applicable withholding tax. If the forms or other documentation required by Section 16.2(a) or 16.2(c) are not delivered to Agent (or, in the case of a Participant, to the Lender granting the participation), then Agent (or, in the case of a Participant, to the Lender granting the participation) may withhold from any payment to such Lender or such Participant not providing such forms or other documentation an amount equivalent to the applicable withholding tax.

(b) If the IRS or any other Governmental Authority of the United States or other jurisdiction asserts a claim that Agent (or, in the case of a Participant, to the Lender granting the participation) did not properly withhold tax from amounts paid to or for the account of any Lender or any Participant due to a failure on the part of the Lender or any Participant (because the appropriate form was not delivered, was not properly executed, or because such Lender failed to notify Agent (or such Participant failed to notify the Lender granting the participation) of a change in circumstances which rendered the exemption from, or reduction of, withholding tax ineffective, or for any other reason) such Lender shall indemnify and hold Agent harmless (or, in the case of a Participant, such Participant shall indemnify and hold the Lender granting the participation harmless) for all amounts paid, directly or indirectly, by Agent (or, in the case of a Participant, to the Lender granting the participation), as tax or otherwise, including penalties and interest, and including any taxes imposed by any jurisdiction on the amounts payable to Agent (or, in the case of a Participant, to the Lender granting the participation only) under this Section 16, together with all costs and expenses (including attorneys' fees and expenses). The obligation of the Lenders and the Participants under this subsection shall survive the payment of all Obligations and the resignation or replacement of Agent.

16.4 **Refunds**. If Agent or a Lender determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which the Loan Parties have paid any amounts pursuant to this Section 16, it shall pay over such refund to the Administrative Borrower on behalf of the Loan Parties (but only to the extent of payments made, or additional amounts paid, by the Loan Parties under this Section 16 with respect to Indemnified Taxes giving rise to such a refund), net of all out-of-pocket expenses of Agent or such Lender and without interest (other than any interest paid by the applicable Governmental Authority with respect to such a refund); provided, that the Loan Parties, upon the request of Agent or such Lender, agrees to repay the amount paid over to the Loan Parties (plus any penalties, interest or other charges, imposed by the applicable Governmental Authority, other than such penalties, interest or other charges imposed as a result of the willful misconduct or gross negligence of Agent or Lender hereunder as finally determined by a court of competent jurisdiction) to Agent or such Lender in the event Agent or such Lender is required to repay such refund to such Governmental Authority. Notwithstanding anything in this Agreement to the contrary, this Section 16.4 shall not be construed to require Agent or any Lender to make available its tax returns (or any other information which it deems confidential) to Loan Parties or any other Person or require Agent or any Lender to pay any amount to an indemnifying party pursuant to Section 16.4, the payment of which would place Agent or such Lender (or their Affiliates) in a less favorable net after-Tax position than such Person would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid.

16.5 **United Kingdom Tax Matters**.

(a) UK Taxes. The provisions of this Section 16.5 shall only apply in respect of any UK Borrower.

(b) Tax Gross-Up.

(i) Each UK Borrower shall make all payments to be made by it under any Loan Document without any Tax Deduction unless a Tax Deduction is required by law.

(ii) A UK Borrower shall, promptly upon becoming aware that it must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify Agent accordingly. Similarly, a Lender shall promptly notify Agent on becoming so aware in respect of a payment payable to that Lender. If Agent receives such notification from a Lender it shall notify the UK Borrowers.

(iii) Subject to Section 16.5(b)(iv), if a Tax Deduction is required by law to be made by a UK Borrower, the amount of the payment due from that UK Borrower shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.

(iv) A payment shall not be increased under Section 16.5(b)(iii) above by reason of a Tax Deduction on account of Taxes imposed by the United Kingdom if, on the date on which the payment falls due:

(A) the payment could have been made to the relevant Lender without a Tax Deduction if the Lender had been a Qualifying Lender, but on that date that Lender is not or has ceased to be a Qualifying Lender other than as a result of any change after the date it became a Lender under this Agreement in (or in the interpretation, administration, or application of) any law or Treaty or any published practice or published concession of any relevant taxing authority; or

(B) the relevant Lender is a Qualifying Lender solely by virtue of clause (b) of the definition of Qualifying Lender, and:

an officer of H.M. Revenue & Customs has given (and not revoked) a direction (a "Direction") under section 931 of the UK ITA which relates to the payment and that Lender has received from the UK Borrowers making the payment a certified copy of that Direction;

the payment could have been made to the Lender without any Tax Deduction if that Direction had not been made; or

(C) the relevant Lender is a Qualifying Lender solely by virtue of clause (b) of the definition of Qualifying Lender and:

the relevant Lender has not given a Tax Confirmation to the UK Borrowers; and

the payment could have been made to the Lender without any Tax Deduction if the Lender had given a Tax Confirmation to the UK Borrowers, on the basis that the Tax Confirmation would have enabled the UK Borrowers to have formed a reasonable belief that the payment was an "excepted payment" for the purpose of section 930 of the UK ITA; or

(D) the relevant Lender is a Treaty Lender and the UK Borrowers making the payment is able to demonstrate that the payment could have been made to the Lender without the Tax Deduction had that Lender complied with its obligations under Section 16.5(b)(vii) and Section 16.5(f) below.

(v) If a UK Borrower is required to make a Tax Deduction, that UK Borrower shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.

(vi) Within thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the UK Borrowers making that Tax Deduction shall deliver to Agent for the benefit of the Lender entitled to the payment a statement under section 975 of the UK ITA or other evidence reasonably satisfactory to that Lender that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

(vii) A Treaty Lender and each UK Borrower which makes a payment to which that Treaty Lender is entitled shall co-operate in completing any procedural formalities necessary for that UK Borrower to obtain authorization to make that payment without a Tax Deduction and, until such time as the UK Borrowers have obtained authorization (including under the HMRC DT Treaty Passport scheme) to make payments without any Tax Deduction, the UK Borrowers will continue to comply with their obligations under the remaining provisions of this Section 16.5(b).

(viii) Nothing in Section 16.5(b)(vii) above shall require a Treaty Lender to:

(A) register under the HMRC DT Treaty Passport scheme;

(B) apply the HMRC DT Treaty Passport scheme to any advance if it has so registered; or

(C) file Treaty forms if it has given a confirmation to the effect that it wishes the HMRC DT Treaty Passport Scheme to apply to this Agreement in accordance with Section 16.5(b)(xi) or Section 16.5(f)(i) (HMRC DT Treaty Passport scheme confirmation) and the UK Borrowers making that payment has not complied with its obligations under Section 16.5(b)(xii) or Section 16.5(f)(ii) (HMRC DT Treaty Passport scheme confirmation).

(ix) A UK Non-Bank Lender which becomes a party on the day on which this Agreement is entered into gives a Tax Confirmation to the UK Borrowers by entering into this Agreement.

(x) A UK Non-Bank Lender shall promptly notify the UK Borrowers and Agent if there is any change in the position from that set out in the Tax Confirmation.

(xi) A Treaty Lender which becomes a party on the day on which this Agreement is entered into that holds a passport under the HMRC DT Treaty Passport scheme, and which wishes that scheme to apply to this Agreement, shall give a confirmation to that effect (for the benefit of Agent and without liability to any UK Borrower) by notifying the Administrative Borrowers of its scheme reference number and its jurisdiction of tax residence.

(xii) Where a Lender notifies the Administrative Borrowers as described in Section 16.5(b)(xi) above, each UK Borrower shall file a duly completed form DTTP2 in respect of such Lender with HM Revenue & Customs within 30 days of the date of this Agreement and shall promptly provide the Lender with a copy of that filing.

(xiii) Where a Lender has notified the Administrative Borrowers as described in Section 16.5(b)(xi) and a UK Borrower which has complied with its obligations under Section 16.5(b)(xii) has filed a duly completed form DTTP2 but that form DTTP2 has been rejected by H.M. Revenue & Customs or H.M. Revenue & Customs has not given the UK Borrowers authority to make payments to that Lender without a Tax Deduction within 60 days of the date of filing the form DTTP2, the UK Borrowers shall notify the Lender in writing and the Lender shall co-operate in completing any additional procedural formalities necessary for that UK Borrower to obtain authorization to make a payment without a Tax Deduction.

(xiv) If a Lender has not given a confirmation to the effect that it wishes the HMRC DT Treaty Passport scheme to apply to this Agreement in accordance with Section 16.5(b)(xi) above or Section 16.5(f)(i), no UK Borrower shall file any form relating to the HMRC DT Treaty Passport scheme in respect of that Lender's advance or its participation in any advance, unless the Lender agrees otherwise.

(c) Tax indemnity.

(i) Subject to Section 16.5(c)(ii), the UK Borrowers shall (within three Business Days of demand by Agent) pay to the Lender an amount equal to the loss, liability or cost which that Lender determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Lender in respect of a Loan Document.

(ii) Section 16.5(c)(i) above shall not apply:

(A) with respect to any Tax assessed on a Lender:

i. under the law of the jurisdiction in which that Lender is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Lender is treated as resident for tax purposes; or

ii. under the law of the jurisdiction in which that Lender's lending office is located in respect of amounts received or receivable in that jurisdiction,

(B) if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Lender; or

(C) to the extent a loss, liability or cost:

i. is compensated for by an increased payment under Section 16.5(b); or

ii. would have been compensated for by an increased payment under Section 16.5(b) but was not so compensated solely because one of the exclusions in Section 16.5(b) applied; or

iii. relates to a deduction or withholding from a payment under a Loan Document required by FATCA.

(iii) A Lender making, or intending to make a claim under Section 16.5(c)(i) above shall promptly notify Agent of the event which will give, or has given, rise to the claim, following which Agent shall notify the UK Borrowers.

(iv) A Lender shall, on receiving a payment from a UK Borrower under Section 16.5(c)(i), notify Agent.

(d) Tax Credit. If a UK Borrower makes a Tax Payment and the relevant Lender reasonably determines that (1) a Tax Credit is attributable either to an increased payment of which that Tax Payment forms part, or to that Tax Payment; and that (2) Lender has obtained, utilized and retained the benefit of that Tax Credit, the Lender shall pay an amount to the UK Borrowers which that Lender reasonably determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the UK Borrowers. Each Lender shall promptly notify the UK Borrowers of any Tax Credit that may give rise to a payment under this Section 16.5(d).

(e) Lender Status Confirmation. Each Lender which becomes a party to this Agreement after the date of this Agreement ("New Lender") shall confirm, in the Assignment and Acceptance Agreement which it executes on becoming a party, and for the benefit of Agent and without liability to any UK Borrower, which of the following categories it falls within:

(i) not a Qualifying Lender;

(ii) a Qualifying Lender (other than a Treaty Lender); or

(iii) a Treaty Lender.

If a New Lender fails to indicate its status in accordance with this Section 16.5(e), then such New Lender or Lender (as appropriate) shall be treated for the purposes of this Agreement (including by each UK Borrower) as if it is not a Qualifying Lender until such time as it notifies Agent which category of Qualifying Lender applies (and Agent, upon receipt of such notification, shall inform the UK Borrowers). For the avoidance of doubt, an Assignment and Acceptance shall not be invalidated by any failure of a New Lender to comply with this Section 16.5. A New Lender who has indicated its status in accordance with this Section 16.5(e) shall use reasonable efforts to notify the UK Borrowers if it becomes aware of a change in that status.

(f) HMRC DT Treaty Passport Scheme Confirmation.

(i) A New Lender that is a Treaty Lender that holds a passport under the HMRC DT Treaty Passport scheme, and which wishes that scheme to apply to this Agreement, shall give a confirmation to that effect (for the benefit of Agent and without liability to any UK Borrower) in the Assignment and Acceptance which it executes by including its scheme reference number and its jurisdiction of tax residence in that Assignment and Acceptance.

(ii) Where an Assignment and Acceptance includes the confirmation described in Section 16.5(f)(i) above in the relevant Assignment and Acceptance each UK Borrower which is a Party as a Borrower as at the date that the relevant Assignment and Acceptance Agreement is executed (the "Transfer Date") shall file a duly completed form DTTP2 in respect of such Lender with HM Revenue & Customs within 30 days of that Transfer Date and shall promptly provide the Lender with a copy of that filing.

(iii) Where a New Lender that is a Treaty Lender has confirmed that it wishes the HMRC DT Treaty Passport scheme to apply in the Assignment and Acceptance as described in Section 16.5(f)(i) and a UK Borrower which has complied with its obligations under Section 16.5(f)(ii) has filed a duly completed form DTTP2 but that form DTTP2 has been rejected by H.M. Revenue & Customs or H.M. Revenue & Customs has not given the UK Borrowers authority to make payments to that Lender without a Tax Deduction within 60 days of the date of filing the form DTTP2, the UK Borrowers shall notify the Lender in writing and the Lender shall co-operate in completing any additional procedural formalities necessary for that UK Borrower to obtain authorization to make a payment without a Tax Deduction.

(g) Stamp Taxes. The UK Borrowers shall pay and, within three Business Days of demand, indemnify each Lender against any cost, loss or liability that Lender incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Loan Document (including such taxes or duties payable in order to register or enforce any Loan Document) or the transactions occurring under any of them.

(h) Value Added Tax.

(i) All amounts set out or expressed in a Loan Document to be payable by any party to any Lender which (in whole or in part) constitute the consideration for a supply or supplies for VAT purposes shall be deemed to be exclusive of any VAT which is chargeable on such supply or supplies, and accordingly, subject to Section 16.5(h)(ii) below, if VAT is or becomes chargeable on any supply made by any Lender to any party under a Loan Document, that party shall pay to the Lender (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of such VAT (and such Lender shall promptly provide an appropriate VAT invoice to such party).

(ii) If VAT is or becomes chargeable on any supply made by any Lender (the " Supplier") to any other Lender (the "Recipient") under a Loan Document, and any party other than the Recipient (the "Subject Party") is required by the terms of any Loan Document to pay an amount equal to the consideration for such supply to the Supplier (rather than being required to reimburse the Recipient in respect of that consideration):

(A) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Subject Party shall also pay to the Supplier (in addition to and at the same time as paying such amount) an amount equal to the amount of such VAT. The Recipient will promptly pay to the Subject Party an amount equal to any credit or repayment obtained by the Recipient from the relevant tax authority which the Recipient reasonably determines is in respect of such VAT.

(B) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Subject Party shall promptly, following demand from the Recipient, pay to the Recipient an amount equal to VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.

(iii) Where a Loan Document requires any party to reimburse or indemnify a Lender for any cost or expense, that party shall reimburse or indemnify (as the case may be) such Lender for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Lender reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.

(iv) Any reference in this Section 16.5(h) to any party shall, at any time when such party is treated as a member of a group for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the representative member of such group at such time (the term "representative member" to have the same meaning as in the United Kingdom Value Added Tax Act 1994).

(v) (v) In relation to any supply made by a Lender or Agent to any party under any Loan Document, if reasonably requested by such Lender or Agent, that party shall promptly provide such Lender or Agent with details of that party's VAT registration and such other information as is reasonably requested in connection with such Lender's or Agent's VAT reporting requirements in relation to such supply.

(i) Determination. Except as otherwise expressly provided in Section 16.5, a reference to "determines" or "determined" in connection with tax provisions contained in Section 16.5 means a determination made in the absolute discretion of the person making the determination.

17. GENERAL PROVISIONS.

17.1 **Effectiveness.** This Agreement shall be binding and deemed effective when executed by Holdings, Intermediate Holdings, CP Holdings LLC, Buyer, each Borrower, Agent, and each Lender whose signature is provided for on the signature pages hereof.

17.2 **Section Headings.** Headings and numbers have been set forth herein for convenience only. Unless the contrary is compelled by the context, everything contained in each Section applies equally to this entire Agreement.

17.3 **Interpretation.** Neither this Agreement nor any uncertainty or ambiguity herein shall be construed against the Lender Group or Holdings or Intermediate Holdings or CP Holdings LLC or any Loan Party, whether under any rule of construction or otherwise. On the contrary, this Agreement has been reviewed by all parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to accomplish fairly the purposes and intentions of all parties hereto.

17.4 **Severability of Provisions.** Each provision of this Agreement shall be severable from every other provision of this Agreement for the purpose of determining the legal enforceability of any specific provision.

17.5 **Bank Product Providers.** Each Bank Product Provider in its capacity as such shall be deemed a third party beneficiary hereof and of the provisions of the other Loan Documents for purposes of any reference in a Loan Document to the parties for whom Agent is acting. Agent hereby agrees to act as agent for such Bank Product Providers and, by virtue of entering into a Bank Product Agreement, the applicable Bank Product Provider shall be automatically deemed to have appointed Agent as its agent and to have accepted the benefits of the Loan Documents. It is understood and agreed that the rights and benefits of each Bank Product Provider under the Loan Documents consist exclusively of such Bank Product Provider's being a beneficiary of the Liens and security interests (and, if applicable, guarantees) granted to Agent and the right to share in payments and collections out of the Collateral as more fully set forth herein. In addition, each Bank Product Provider, by virtue of entering into a Bank Product Agreement, shall be automatically deemed to have agreed that Agent shall have the right, but shall have no obligation, to establish, maintain, relax, or release reserves in respect of the Bank Product Obligations and that if reserves are established there is no obligation on the part of Agent to determine or insure whether the amount of any such reserve is appropriate or not. In connection with any such distribution of payments or proceeds of Collateral, Agent shall be entitled to assume no amounts are due or owing to any Bank Product Provider unless such Bank Product Provider has provided a written certification (setting forth a reasonably detailed calculation) to Agent as to the amounts that are due and owing to it and such written certification is received by Agent a reasonable period of time prior to the making of such distribution. Agent shall have no obligation to calculate the amount due and payable with respect to any Bank Products, but may rely upon the written certification of the amount due and payable from the applicable Bank Product Provider. In the absence of an updated certification, Agent shall be entitled to assume that the amount due and payable to the applicable Bank Product Provider is the amount last certified to Agent by such Bank Product Provider as being due and payable (less any distributions made to such Bank Product Provider on account thereof). Borrowers may obtain Bank Products from any Bank Product Provider, although Borrowers are not required to do so. Each Borrower acknowledges and agrees that no Bank Product Provider has committed to provide any Bank Products and that the providing of Bank Products by any Bank Product Provider is in the sole and absolute discretion of such Bank Product Provider. Notwithstanding anything to the contrary in this Agreement or any other Loan Document, no provider or holder of any Bank Product shall have any voting or approval rights hereunder (or be deemed a Lender) solely by virtue of its status as the provider or holder of such agreements or products or the Obligations owing thereunder, nor shall the consent of any such provider or holder be required (other than in their capacities as Lenders, to the extent applicable) for any matter hereunder or under any of the other Loan Documents, including as to any matter relating to the Collateral or the release of Collateral or Guarantors.

17.6 **Debtor-Creditor Relationship.** The relationship between the Lenders and Agent, on the one hand, and the Loan Parties, on the other hand, is solely that of creditor and debtor. No member of the Lender Group has (or shall be deemed to have) any fiduciary relationship or duty to any Loan Party arising out of or in connection with the Loan Documents or the transactions contemplated thereby, and there is no agency or joint venture relationship between the members of the Lender Group, on the one hand, and the Loan Parties, on the other hand, by virtue of any Loan Document or any transaction contemplated therein.

17.7 **Counterparts; Electronic Execution.** This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same Agreement. Delivery of an executed counterpart of this Agreement by telefacsimile or other electronic method of transmission shall be equally as effective as delivery of an original executed counterpart of this Agreement. Any party delivering an executed counterpart of this Agreement by telefacsimile or other electronic method of transmission also shall deliver an original executed counterpart of this Agreement but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement. The foregoing shall apply to each other Loan Document *mutatis mutandis*.

17.8 **Revival and Reinstatement of Obligations.** If any member of the Lender Group or any Bank Product Provider repays, refunds, restores, or returns in whole or in part, any payment or property (including any proceeds of Collateral) previously paid or transferred to such member of the Lender Group or such Bank Product Provider in full or partial satisfaction of any Obligation or on account of any other obligation of any Loan Party under any Loan Document or any Bank Product Agreement, because the payment, transfer, or the incurrence of the obligation so satisfied is asserted or declared to be void, voidable, or otherwise recoverable under any law relating to creditors' rights, including provisions of the Bankruptcy Code or any other Debtor Relief Law relating to fraudulent transfers, preferences, or other voidable or recoverable obligations or transfers (each, a "Voidable Transfer"), or because such member of the Lender Group or Bank Product Provider elects to do so on the reasonable advice of its counsel in connection with a claim that the payment, transfer, or incurrence is or may be a Voidable Transfer, then, as to any such Voidable Transfer, or the amount thereof that such member of the Lender Group or Bank Product Provider elects to repay, restore, or return (including pursuant to a settlement of any claim in respect thereof), and as to all reasonable costs, expenses, and attorneys fees of such member of the Lender Group or Bank Product Provider related thereto, (i) the liability of the Loan Parties with respect to the amount or property paid, refunded, restored, or returned will automatically and immediately be revived, reinstated, and restored and will exist and (ii) Agent's Liens securing such liability shall be effective, revived, and remain in full force and effect, in each case, as fully as if such Voidable Transfer had never been made. If, prior to any of the foregoing, (A) Agent's Liens shall have been released or terminated or (B) any provision of this Agreement shall have been terminated or cancelled, Agent's Liens, or such provision of this Agreement, shall be reinstated in full force and effect and such prior release, termination, cancellation or surrender shall not diminish, release, discharge, impair or otherwise affect the obligation of any Loan Party in respect of such liability or any Collateral securing such liability. This provision shall survive the termination of this Agreement and the repayment in full of the Obligations.

17.9 **Confidentiality.**

(a) Agent and Lenders each individually (and not jointly or jointly and severally) agree that material, non-public information regarding Sponsor, Buyer, Holdings and its Subsidiaries, their operations, assets, and existing and contemplated business plans ("Confidential Information") shall be treated by Agent and the Lenders in a confidential manner, and shall not be disclosed by Agent and the Lenders to Persons who are not parties to this Agreement, except: (i) to attorneys for and other advisors, accountants, auditors, and consultants to any member of the Lender Group and to employees, directors and officers of any member of the Lender Group (the Persons in this clause (i), "Lender Group Representatives") on a "need to know" basis in connection with this Agreement and the transactions contemplated hereby and on a confidential basis, (ii) to Subsidiaries and Affiliates of any member of the Lender Group (including the Bank Product Providers), provided that any such Subsidiary or Affiliate shall have agreed to receive such information hereunder subject to the terms of this Section 17.9, (iii) as may be required by regulatory authorities so long as such authorities are informed of the confidential nature of such information, (iv) as may be required by statute, decision, or judicial or administrative order, rule, or regulation; provided that (x) prior to any disclosure under this clause (iv), the disclosing party agrees to provide Borrowers with prior notice thereof, to the extent that it is practicable to do so and to the extent that the disclosing party is permitted to provide such prior notice to Borrowers pursuant to the terms of the applicable statute, decision, or judicial or administrative order, rule, or regulation and (y) any disclosure under this clause (iv) shall be limited to the portion of the Confidential Information as may be required by such statute, decision, or judicial or administrative order, rule, or regulation, (v) as may be agreed to in advance in writing by Borrowers, (vi) as requested or required by any Governmental Authority pursuant to any subpoena or other legal process, provided, that, (x) prior to any disclosure under this clause (vi) the disclosing party agrees to provide Borrowers with prior written notice thereof, to the extent that it is practicable to do so and to the extent that the disclosing party is permitted to provide such prior written notice to Borrowers pursuant to the terms of the subpoena or other legal process and (y) any disclosure under this clause (vi) shall be limited to the portion of the Confidential Information as may be required by such Governmental Authority pursuant to such subpoena or other legal process, (vii) as to any such information that is or becomes generally available to the public (other than as a result of prohibited disclosure by Agent or the Lenders or the Lender Group Representatives), (viii) in connection with any assignment, participation or pledge of any Lender's interest under this Agreement, provided that prior to receipt of Confidential Information any such assignee, participant, or pledgee shall have agreed in writing to receive such Confidential Information either subject to the terms of this Section 17.9 or pursuant to confidentiality requirements substantially similar to those contained in this Section 17.9 (and such Person may disclose such Confidential Information to Persons employed or engaged by them as described in clause (i) above), (ix) in connection with any litigation or other adversary proceeding involving parties hereto which such litigation or adversary proceeding involves claims related to the rights or duties of such parties under this Agreement or the other Loan Documents; provided, that, prior to any disclosure to any Person (other than any Loan Party, Agent, any Lender, any of their respective Affiliates, or their respective counsel) under this clause (ix) with respect to litigation involving any Person (other than any Borrower, Agent, any Lender, any of their respective Affiliates, or their respective counsel), the disclosing party agrees to provide Borrowers with prior written notice thereof, and (x) in connection with, and to the extent reasonably necessary for, the exercise of any secured creditor remedy under this Agreement or under any other Loan Document.

(b) Anything in this Agreement to the contrary notwithstanding, Agent may disclose information concerning the terms and conditions of this Agreement and the other Loan Documents to loan syndication and pricing reporting services or in its marketing or promotional materials, with such information to consist of deal terms and other information customarily found in such publications or marketing or promotional materials and may otherwise use the name, logos, and other insignia of any Borrower or the other Loan Parties and the Commitments provided hereunder in any "tombstone" or other advertisements, on its website or in other marketing materials of Agent.

(c) Each Loan Party agrees that Agent may make materials or information provided by or on behalf of Borrowers hereunder (collectively, "Borrower Materials") available to the Lenders by posting the Communications on the Platform. The Platform is provided "as is" and "as available." Agent does not warrant the accuracy or completeness of the Borrower Materials, or the adequacy of the Platform and expressly disclaim 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 Agent in connection with the Borrower Materials or the Platform. In no event shall Agent or any of the Agent-Related Persons have any liability to the Loan Parties, any Lender or any other person for damages of any kind, including direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of any Loan Party's or Agent's transmission of communications through the Internet, except to the extent the liability of such person is found in a final non-appealable judgment by a court of competent jurisdiction to have resulted from such person's gross negligence or willful misconduct. Each Loan Party further agrees that 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 Loan Parties or their securities) (each, a "Public Lender"). The Loan Parties shall be deemed to have authorized Agent and its Affiliates and the Lenders to treat Borrower Materials marked "PUBLIC" or otherwise at any time filed with the SEC as not containing any material non-public information with respect to the Loan Parties or their securities for purposes of United States federal and state securities laws. All Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated as "Public Investor" (or another similar term). Agent and its Affiliates and the Lenders shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" or that are not at any time filed with the SEC as being suitable only for posting on a portion of the Platform not marked as "Public Investor" (or such other similar term).

17.10 **Survival.** All representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that Agent, Issuing Bank, or any Lender may have had notice or knowledge of any Default or Event of Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of, or any accrued interest on, any Loan or any fee or any other amount payable under this Agreement is outstanding or unpaid or any Letter of Credit is outstanding and so long as the Commitments have not expired or been terminated.

17.11 **Patriot Act.** Each Lender that is subject to the requirements of the Patriot Act hereby notifies the Loan Parties that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender to identify each Loan Party in accordance with the Patriot Act. In addition, Agent and each Lender shall have the right to periodically conduct due diligence on all Loan Parties, their senior management and key principals and legal and beneficial owners. Each Loan Party agrees to cooperate in respect of the conduct of such due diligence and further agrees that the reasonable costs and charges for any such due diligence by Agent shall constitute Lender Group Expenses hereunder and be for the account of Borrowers.

17.12 **Judgment Currency.** If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of each Borrower in respect of any such sum due from it to Agent or any Lender hereunder or under the other Loan Documents shall, notwithstanding any judgment in a currency (the "Judgment Currency") other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the "Agreement Currency"), be discharged only to the extent that on the Business Day following receipt by Agent or such Lender, as the case may be, of any sum adjudged to be so due in the Judgment Currency, Agent or such Lender, as the case may be, may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to Agent or any Lender from any Borrower in the Agreement Currency, such Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify Agent or such Lender, as the case may be, against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to Agent or any Lender in such currency, Agent or such Lender, as the case may be, agrees to return the amount of any excess to such Borrower (or to any other Person who may be entitled thereto under applicable law).

17.13 **Integration.** This Agreement, together with the other Loan Documents, reflects the entire understanding of the parties with respect to the transactions contemplated hereby and shall not be contradicted or qualified by any other agreement, oral or written, before the date hereof. The foregoing to the contrary notwithstanding, all Bank Product Agreements, if any, are independent agreements governed by the written provisions of such Bank Product Agreements, which will remain in full force and effect, unaffected by any repayment, prepayments, acceleration, reduction, increase, or change in the terms of any credit extended hereunder, except as otherwise expressly provided in such Bank Product Agreement.

17.14 **Administrative Borrowers**

(a) **Target as Administrative Borrower for US Borrowers.** Each US Borrower hereby irrevocably appoints Target as the borrowing agent and attorney-in-fact for all US Borrowers (the "US Administrative Borrower") which appointment shall remain in full force and effect unless and until Agent shall have received prior written notice signed by each US Borrower that such appointment has been revoked and that another US Borrower has been appointed US Administrative Borrower. Each US Borrower hereby irrevocably appoints and authorizes the US Administrative Borrower (a) to provide Agent with all notices with respect to US Revolving Loans and Letters of Credit obtained for the benefit of any US Borrower and all other notices and instructions under this Agreement and the other Loan Documents (and any notice or instruction provided by US Administrative Borrower shall be deemed to be given by US Borrowers hereunder and shall bind each US Borrower), (b) to receive notices and instructions from members of the Lender Group (and any notice or instruction provided by any member of the Lender Group to the US Administrative Borrower in accordance with the terms hereof shall be deemed to have been given to each US Borrower), and (c) to take such action as the US Administrative Borrower deems appropriate on its behalf to obtain US Revolving Loans and Letters of Credit and to exercise such other powers as are reasonably incidental thereto to carry out the purposes of this Agreement. It is understood that the handling of the US Loan Account and Collateral in a combined fashion, as more fully set forth herein, is done solely as an accommodation to US Borrowers in order to utilize the collective borrowing powers of US Borrowers in the most efficient and economical manner and at their request, and that Lender Group shall not incur liability to any US Borrower as a result hereof. Each US Borrower expects to derive benefit, directly or indirectly, from the handling of the US Loan Account and the Collateral in a combined fashion since the successful operation of each US Borrower is dependent on the continued successful performance of the integrated group. To induce the Lender Group to do so, and in consideration thereof, each Borrower hereby jointly and severally agrees to indemnify each member of the Lender Group and hold each member of the Lender Group harmless against any and all liability, expense, loss or claim of damage or injury, made against the Lender Group by any US Borrower or by any third party whosoever, arising from or incurred by reason of (i) the handling of the US Loan Account and Collateral of US Borrowers as herein provided, or (ii) the Lender Group's relying on any instructions of the US Administrative Borrower, except that US Borrowers will have no liability to the relevant Agent-Related Person or Lender-Related Person under this Section 17.14(a) with respect to any liability that has been finally determined by a court of competent jurisdiction to have resulted solely from the gross negligence or willful misconduct of such Agent-Related Person or Lender-Related Person, as the case may be.

(b) **Camfaud Concrete as Administrative Borrower for UK Borrowers.** Each UK Borrower hereby irrevocably appoints Camfaud Concrete as the borrowing agent and attorney-in-fact for all UK Borrowers (the "UK Administrative Borrower") which appointment shall remain in full force and effect unless and until Agent shall have received prior written notice signed by each UK Borrower that such appointment has been revoked and that another UK Borrower has been appointed UK Administrative Borrower. Each UK Borrower hereby irrevocably appoints and authorizes the UK Administrative Borrower (a) to provide Agent with all notices with respect to UK Revolving Loans obtained for the benefit of any UK Borrower and all other notices and instructions under this Agreement and the other Loan Documents (and any notice or instruction provided by UK Administrative Borrower shall be deemed to be given by UK Borrowers hereunder and shall bind each UK Borrower), (b) to receive notices and instructions from members of the Lender Group (and any notice or instruction provided by any member of the Lender Group to the UK Administrative Borrower in accordance with the terms hereof shall be deemed to have been given to each UK Borrower), and (c) to take such action as the UK Administrative Borrower deems appropriate on its behalf to obtain UK Revolving Loans and to exercise such other powers as are reasonably incidental thereto to carry out the purposes of this Agreement. It is understood that the handling of the UK Loan Account and Collateral in a combined fashion, as more fully set forth herein, is done solely as an accommodation to UK Borrowers in order to utilize the collective borrowing powers of UK Borrowers in the most efficient and economical manner and at their request, and that Lender Group shall not incur liability to any UK Borrower as a result hereof. Each UK Borrower expects to derive benefit, directly or indirectly, from the handling of the UK Loan Account and the Collateral in a combined fashion since the successful operation of each UK Borrower is dependent on the continued successful performance of the integrated group. To induce the Lender Group to do so, and in consideration thereof, each Borrower hereby jointly and severally agrees to indemnify each member of the Lender Group and hold each member of the Lender Group harmless against any and all liability, expense, loss or claim of damage or injury, made against the Lender Group by any UK Borrower or by any third party whosoever, arising from or incurred by reason of (i) the handling of the UK Loan Account and Collateral of UK Borrowers as herein provided, or (ii) the Lender Group's relying on any instructions of the UK Administrative Borrower, except that UK Borrowers will have no liability to the relevant Agent-Related Person or Lender-Related Person under this Section 17.14(b) with respect to any liability that has been finally determined by a court of competent jurisdiction to have resulted solely from the gross negligence or willful misconduct of such Agent-Related Person or Lender-Related Person, as the case may be.

17.15 **Intercreditor Agreement.** Notwithstanding anything to the contrary in this Agreement or in any other Loan Document: (a) the Liens granted to Agent and/or UK Security Agent in favor of each member of the Lender Group and the Bank Product Providers pursuant to the Loan Documents and the exercise of any right related to any Collateral shall be subject, in each case, to the terms of the Intercreditor Agreement, (b) in the event of any conflict between the express terms and provisions of this Agreement or any other Loan Document, on the one hand, and of the Intercreditor Agreement, on the other hand, the terms and provisions of the Intercreditor Agreement shall control, and (c) each Lender authorizes, and, by accepting the benefits of the Collateral, each Bank Product Provider shall be deemed to have authorized, Agent to execute the Intercreditor Agreement on behalf of such Lender, and such Lender agrees to be bound by the terms thereof.

17.16 **Acknowledgement and Consent to Bail-In of EEA Financial Institutions**. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of any EEA Resolution Authority.

17.17 **UK "Know your customer" checks**.

(a) If (i) the introduction of or any change in (or in the interpretation, administration or application of) any law, regulation, applicable market guidance or internal policy in relation to the periodic review and/or updating of customer information made after the date of this Agreement; (ii) any change in the status, or composition of the shareholders, of a UK Loan Party after the date of this Agreement; or (iii) a proposed assignment or transfer by a Lender of any of its rights and obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer, obliges Agent or any Lender (or, in the case of clause (iii) above, any prospective new Lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, each UK Loan Party shall promptly upon the request of Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by Agent (for itself or on behalf of any Lender) or any Lender (for itself or, in the case of the event described in clause (iii) above, on behalf of any prospective new Lender) in order for Agent, such Lender or, in the case of the event described in clause (iii) above, any prospective new Lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Loan Documents.

(b) Each Lender shall promptly upon the request of Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by Agent (for itself) in order for Agent to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Loan Documents.

(c) UK Administrative Borrower shall, by not less than 10 Business Days' prior written notice to Agent, notify Agent (which shall promptly notify the UK Lenders) of its intention to request that one of its Subsidiaries becomes a party hereto as a UK Borrower in accordance with the terms hereof.

(d) Following the giving of any notice pursuant to Section 17.17(c), if the accession of such Subsidiary obliges Agent, UK Security Agent or any UK Lender to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, the Company shall promptly upon the request of Agent, UK Security Agent or any UK Lender supply, or procure the supply of, such documentation and other evidence as is requested by Agent (for itself or on behalf of any UK Lender) or UK Security Agent or any UK Lender (for itself or on behalf of any prospective new UK Lender) in order for Agent, UK Security Agent or such UK Lender or any prospective new UK Lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the accession of such Subsidiary to this Agreement as a UK Borrower.

17.18 [**Reserved**].

17.19 **Process Agent**. Borrowers shall cause each UK Loan Party to irrevocably appoint a process agent reasonably satisfactory to Agent (the "Process Agent"), as its agent to receive on behalf of each such UK Loan Party, service of the summons and complaint and any other process which may be served in any action or proceeding in connection with any Loan Document or the Obligations thereunder, for a term ending no earlier than one year immediately following the Maturity Date. Such service may be made by mailing or delivering a copy of such process to each UK Loan Party, in care of the Process Agent at the address specified in the instrument whereby the Process Agent accepts its appointment (a copy of which will be delivered to Agent upon receipt thereof), and Borrowers shall cause each such UK Loan Party to irrevocably authorize and direct the Process Agent to accept such service on its behalf. Borrowers shall cause each UK Loan Party to covenant and agree that, for so long as it shall be bound under any Loan Document, it shall (a) maintain a duly appointed agent for the service of summons and other legal process in the County of San Francisco, California, United States of America, for the purposes of any legal action, suit or proceeding brought by any party in respect of this Agreement or such other Loan Document and (b) keep Agent advised of the identity and location of such agent. If for any reason there is no authorized agent for service of process in California, United States of America, Borrowers shall cause each UK Loan Party to irrevocably consent to the service of process out of the said courts by mailing copies thereof by registered United States air mail postage prepaid to it at its address specified in Section 11. Nothing in this Section shall affect the right of any member of the Lender Group to (i) commence legal proceedings or otherwise sue any UK Loan Party in the country in which it is domiciled or in any other court having jurisdiction over such UK Loan Party or (ii) serve process upon any UK Loan Party in any manner authorized by the laws of any such jurisdiction.

17.20 **Assignment and Delegation to and Assumption**. Effective immediately following the consummation of the Concrete Pumping Acquisition and the initial Borrowing on the Closing Date, and without any further action by or on behalf of any of the parties hereto or any other Person, each of the Target, Brundage Pumping, Eco-Pan US, Camfaud Concrete, and Premier Concrete, hereby irrevocably and unconditionally (a) assumes and agrees to punctually pay, perform and discharge when due each of the Obligations (in the case of Target, Brundage Pumping, and Eco-Pan US), the UK Obligations (in the case of Camfaud Concrete and Premier Concrete), and each and every debt, covenant and agreement incurred, made or to be paid, performed or discharged by the Borrowers under the Loan Documents in accordance with their terms, (b) agrees to be bound by all the terms, provisions and conditions of the Loan Documents applicable to the Borrowers and (C) agrees that it will be responsible for and deemed to have made all the representations and warranties of the Borrowers, whenever made or deemed to have been made, in the case of each of the foregoing clauses, with the same force and effect as if each such Person were an original Borrower under the Loan Documents prior to the consummation of the Concrete Pumping Acquisition and the initial Borrowing on the Closing Date; provided, that in no event shall the UK Borrowers or any of their respective Subsidiaries be obligated or have any liability in respect of the US Obligations. Upon the effectiveness of the assignment and assumption provided for above, each such Person will be Borrowers for all purposes of the Loan Documents.

[Signature pages to follow.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered as of the date first above written.

HOLDINGS:

CONCRETE PUMPING HOLDINGS ACQUISITION CORP., a Delaware corporation (to be renamed Concrete Pumping Holdings, Inc. upon consummation of the Concrete Pumping Acquisition)

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer

INTERMEDIATE HOLDINGS:

CONCRETE PUMPING INTERMEDIATE ACQUISITION CORP., a Delaware corporation

By: /s/ Tariq Osman
Name: Tariq Osman
Title: President

CP HOLDINGS LLC:

CONCRETE PUMPING INTERMEDIATE HOLDINGS, LLC, a Delaware limited liability company

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer, Secretary and Treasurer

BUYER:

INDUSTREA ACQUISITION CORP., a Delaware corporation

By: /s/ Tariq Osman
Name: Tariq Osman
Title: Executive Vice President

BORROWERS:

CONCRETE PUMPING MERGER SUB INC., a Delaware corporation (to be merged with and into Concrete Pumping Holdings, Inc., which is to be renamed Brundage Bone Concrete Pumping Holdings Inc. upon consummation of the Concrete Pumping Acquisition)

By: /s/ Tariq Osman
Name: Tariq Osman
Title: President

CONCRETE PUMPING HOLDINGS, INC., a Delaware corporation (which is to be renamed Brundage Bone Concrete Pumping Holdings Inc. upon consummation of the Concrete Pumping Acquisition)

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer, Secretary and Treasurer

BRUNDAGE-BONE CONCRETE PUMPING, INC., a Colorado corporation

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer, Secretary and Treasurer

ECO-PAN, INC., a Colorado corporation

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer, Secretary and Treasurer

BORROWERS (CONT'D):

CAMFAUD CONCRETE PUMPS LIMITED, a private limited company incorporated and registered under the laws of England and Wales with Company Number 02635232

By: /s/ David Faud
Name: David Faud
Title: Director

PREMIER CONCRETE PUMPING LIMITED, a private limited company incorporated and registered under the laws of England and Wales with Company Number 01714938

By: /s/ David Faud
Name: David Faud
Title: Director

AGENT AND US LENDER:

WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, as Agent and as a US Lender

By: /s/ Kathryn A. Scharre
Name: Kathryn A. Scharre
Title: Its Authorized Signatory

UK SECURITY AGENT AND UK LENDER:

WELLS FARGO CAPITAL FINANCE (UK) LIMITED, as UK Security Agent and as UK Lender

By: /s/ Ian Conway
Name: Ian Conway
Title: Its Authorized Signatory

Schedule 1.1

As used in the Agreement, the following terms shall have the following definitions:

"ABL Priority Collateral" has the meaning set forth in the Intercreditor Agreement.

"Acceptable Intercreditor Agreement" means the Intercreditor Agreement or another intercreditor agreement that is reasonably satisfactory to the Agent and the Borrowers.

"Account" means an account (as that term is defined in the Code).

"Account Debtor" means any Person who is obligated on an Account, chattel paper, or a general intangible.

"Account Party" has the meaning specified therefor in Section 2.11(h) of this Agreement.

"Accounting Change" means any change in accounting principles required by the promulgation of any rule, regulation, pronouncement or opinion by the Financial Accounting Standards Board of the American Institute of Certified Public Accountants (or successor thereto or any agency with similar functions).

"Acquisition" means (a) the purchase or other acquisition by a Person or its Subsidiaries of all or substantially all of the assets of (or any division or business line of) any other Person, or (b) the purchase or other acquisition (whether by means of a merger, consolidation, or otherwise) by a Person or its Subsidiaries of all of the Equity Interests of any other Person.

"Additional Lender" means, at any time, any bank, other financial institution or institutional investor that, in each case, is not an existing Lender and that agrees to provide any portion of any Incremental Revolving Commitment pursuant to an Incremental Agreement pursuant to Section 2.16

"Administrative Borrower" means a US Administrative Borrower or a UK Administrative Borrower, as the context requires.

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

"Administrative Questionnaire" has the meaning specified therefor in Section 13.1(a) of this Agreement.

"Affected Lender" has the meaning specified therefor in Section 2.13(b) of this Agreement.

"Affiliate" means, as applied to any Person, any other Person who controls, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" means the possession, directly or indirectly through one or more intermediaries, of the power to direct the management and policies of a Person, whether through the ownership of Equity Interests, by contract, or otherwise; provided that for purposes of the definition of Eligible Accounts and Section 6.8 of this Agreement: (a) if any Person owns directly or indirectly 10% or more of the Equity Interests having ordinary voting power for the election of directors or other members of the governing body of a Person or 10% or more of the partnership or other ownership interests of a Person (other than as a limited partner of such Person), then both such Persons shall be Affiliates of each other, (b) each director (or comparable manager) of a Person shall be deemed to be an Affiliate of such Person, and (c) each partnership in which a Person is a general partner shall be deemed an Affiliate of such Person.

"Agent" has the meaning assigned in the Preamble hereto.

"Agent-Related Persons" means Agent or UK Security Agent, together with its Affiliates, officers, directors, employees, attorneys, delegates and agents.

"Agent's Applicable Account" means Agent's US Account or Agent's UK Account, as the context requires.

"Agent's Liens" means the Liens granted by Holdings or its Subsidiaries to Agent and/or UK Security Agent under the Loan Documents and securing the Obligations.

"Agent's UK Account" means the Deposit Account of Agent identified on Schedule A-1 as Agent's UK Account (or such other Deposit Account of Agent that has been designated as such, in writing, by Agent to UK Borrowers and the Lenders).

"Agent's US Account" means the Deposit Account of Agent identified on Schedule A-1 as Agent's US Account (or such other Deposit Account of Agent that has been designated as such, in writing, by Agent to US Borrowers and the Lenders).

"Aggregate Borrowing Base" means, as of any date of determination, the sum of the US Borrowing Base and the Dollar Equivalent of the UK Borrowing Base.

"Agreement" means the Credit Agreement to which this Schedule 1.1 is attached, as the same may be amended, amended and restated, restated, supplemented or otherwise modified from time to time.

"Agreement Currency" has the meaning specified therefor in Section 17.12 of this Agreement.

"Anti-Corruption Laws" means the FCPA, the UK Bribery Act of 2010, as amended, and all other applicable laws and regulations or ordinances concerning or relating to bribery, money laundering or corruption in any jurisdiction in which any Loan Party or any of its Subsidiaries or Affiliates is located or is doing business.

"Anti-Money Laundering Laws" means the applicable laws or regulations in any jurisdiction in which any Loan Party or any of its Subsidiaries or Affiliates is located or is doing business that relates to money laundering, any predicate crime to money laundering, or any financial record keeping and reporting requirements related thereto.

"Applicable Currency" means (a) Dollars, with respect to Obligations denominated in Dollars and (b) GBP, with respect to Obligations denominated in GBP.

"Applicable Margin" means, as of any date of determination and with respect to Base Rate Loans, or LIBOR Rate Loans, as applicable, the applicable margin set forth in the following table that corresponds to the Quarterly Average Excess Availability of Borrowers for the most recently completed calendar quarter; provided, that for the period from the Closing Date through and including March 31, 2019, the Applicable Margin shall be set at the margin in the row styled "Level III":

Level	Quarterly Average Excess Availability	Applicable Margin Relative to Base Rate Loans (the "Base Rate Margin")	Applicable Margin Relative to LIBOR Rate Loans (the "LIBOR Rate Margin")
I	³ 66.67% of the Maximum Revolver Amount	0.75 percentage points	1.75 percentage points
II	< 66.67% of the Maximum Revolver Amount and ³ 33.33% of the Maximum Revolver Amount	1.00 percentage points	2.00 percentage points
III	< 33.33% of the Maximum Revolver Amount	1.25 percentage points	2.25 percentage points

The Applicable Margin shall be re-determined as of the first day of each calendar quarter by Agent.

"Applicable Unused Line Fee Percentage" means, as of any date of determination, the applicable percentage set forth in the following table that corresponds to the Quarterly Average Revolver Usage of Borrowers for the most recently completed calendar quarter as determined by Agent in its Permitted Discretion; provided, that for the period from the Closing Date through and including March 31, 2019, the Applicable Unused Line Fee Percentage shall be set at the rate in the row styled "Level II":

Level	Quarterly Average Revolver Usage	Applicable Unused Line Fee Percentage
I	³ 50% of the Maximum Revolver Amount	0.25 percentage points
II	< 50% of the Maximum Revolver Amount	0.50 percentage points

The Applicable Unused Line Fee Percentage shall be re-determined on the first day of each successive three-month period following the date above by Agent

"Application Event" means the occurrence of (a) a failure by Borrowers to repay all of the Obligations in full on the Maturity Date, or (b) an Event of Default and the election by Agent or the Required Lenders to require that payments and proceeds of Collateral be applied pursuant to Section 2.4(b)(iii) or Section 2.4(b)(iv) of this Agreement, as the case may be.

"Appraised Eligible Rolling Stock Collateral" means Eligible Rolling Stock Collateral that is subject to a recent appraisal thereof delivered to Agent in form and substance satisfactory to Agent.

"Arranger" means Wells Fargo, in its capacities as sole lead arranger and sole Bookrunner.

"Assignee" has the meaning specified therefor in Section 13.1(a) of this Agreement.

"Assignment and Acceptance" means an Assignment and Acceptance Agreement substantially in the form of Exhibit A-1 to the Agreement.

"Available Amount" means, at any time, an amount equal to, without duplication:

(a) the sum of:

(i) the greater of $10,000,000 and 12% of Consolidated Adjusted EBITDA for the most recently ended Test Period; plus

(ii) the Retained Excess Cash Flow Amount; plus

(iii) the amount of any capital contribution or the proceeds of any issuance of Capital Stock (other than any amounts (x) constituting an Available Excluded Contribution Amount or proceeds of an issuance of Disqualified Capital Stock, (y) received from the Target or any Restricted Subsidiary or (z) otherwise applied to make Restricted Payments pursuant to Section 6.4(a)(ii)(B) or Restricted Debt Payments pursuant to Section 6.4(b)(iii)) received in cash and Cash Equivalents (up to fair market value) by the Target, from and including the day immediately following the Closing Date; plus

(iv) the net proceeds of any Indebtedness or Disqualified Capital Stock received in cash and Cash Equivalents (up to fair market value), in each case, of the Target or any of its Restricted Subsidiaries issued after the Closing Date (other than Indebtedness or such Disqualified Capital Stock issued to the Target or any of its Restricted Subsidiaries), which has been converted into or exchanged for Capital Stock of the Target or any Parent Company that does not constitute Disqualified Capital Stock, in each case, during the period from and including the day immediately following the Closing Date through and including such time; plus

(v) the net proceeds received in cash and Cash Equivalents (up to fair market value) by the Target or any Restricted Subsidiary during the period from and including the day immediately following the Closing Date through and including such time in connection with the Disposition to any Person (other than the Borrower or any Restricted Subsidiary) of any Investment made pursuant to Section 6.6(q)(i) (in an amount not to exceed the original amount of such Investment); plus

(vi) to the extent not already reflected as a return of capital with respect to such Investment for purposes of determining the amount of such Investment, the proceeds received in cash and Cash Equivalents (up to fair market value) by the Target or any of its Restricted Subsidiaries during the period from and including the day immediately following the Closing Date through and including such time in connection with cash returns, cash profits, cash distributions and similar cash amounts, including cash principal repayments of loans, in each case received in respect of any Investment made after the Closing Date pursuant to Section 6.6(q)(i) (in an amount not to exceed the original amount of such Investment); plus

(vii) without duplication, (A) the amount of any Investments by the Target or any Restricted Subsidiary pursuant to Section 6.6(q)(i) in any Unrestricted Subsidiary (in an amount not to exceed the original amount of such Investment) that has been re-designated as a Restricted Subsidiary or has been merged, consolidated or amalgamated with or into, or is liquidated, wound up or dissolved into, the Target or any Restricted Subsidiary and (B) the fair market value (as reasonably determined by the Target) of the property or assets of any Unrestricted Subsidiary that have been transferred, conveyed or otherwise distributed (in an amount not to exceed the original amount of the Investment in such Unrestricted Subsidiary) to the Target or any Restricted Subsidiary, in each case, during the period from and including the day immediately following the Closing Date through and including such time; plus

(viii) the amount of any Declined Proceeds; plus

(ix) the net proceeds received in cash and Cash Equivalents (up to fair market value) of any non-ordinary course sale or other Disposition of assets that (A) are not required to be used to prepay the Term Loan Facility pursuant to Section 2.08(b)(ii) of the Term Loan Facility Agreement because such net cash proceeds do not exceed any threshold therein and (B) are not required to be used to prepay loans outstanding under this Agreement, minus

(b) an amount equal to the sum of (i) Restricted Payments made pursuant to Section 6.4(a)(iii)(A), plus (ii) Restricted Debt Payments made pursuant to Section 6.4(b)(iv)(A), plus (iii) Investments made pursuant to Section 6.6(q)(i), in each case, after the Closing Date and prior to such time, or contemporaneously therewith;

provided that, (i) except with respect to amounts described in clause (a)(iii) above, (1) the use of any amounts hereunder pursuant to Section 6.4(a)(iii)(A) or Section 6.4(b)(iv)(A) shall not be available to the extent that any Event of Default has occurred and is continuing and (2) the use of any amounts hereunder pursuant to Section 6.4(a)(iii)(A) or Section 6.4(b)(iv)(A) shall not be available to the extent that, on a Pro Forma Basis, the Total Leverage Ratio would exceed 4.20:1.00 and (ii) the Target shall not be permitted to use clause (ii) of the Available Amount for Restricted Payments to the extent such Restricted Payment is made from Retained Excess Cash Flow Amount that results from the application of the final proviso to Section 2.08(b)(i) of the Term Loan Facility Agreement.

"Available Excluded Contribution Amount" means, at any time, an amount equal to:

(a) the aggregate amount of cash or Cash Equivalents, received by the Target or any of its Restricted Subsidiaries after the Closing Date from:

(1) contributions in respect of Qualified Capital Stock (other than any amounts received from the Target), and

(2) the sale of Qualified Capital Stock of the Target (other than (i) to the Target or pursuant to any management equity plan or stock option plan or any other management or employee benefit plan and (ii) any amounts otherwise applied to make Restricted Payments pursuant to Section 6.4(a)(ii)(B) or Restricted Debt Payments pursuant to Section 6.4(b)(iii)),

in each case, designated as an Available Excluded Contribution Amount pursuant to a certificate of a Responsible Officer of the Target delivered to the Administrative Agent on or promptly after the date the relevant capital contribution is made or the relevant proceeds are received, as the case may be, and which are, for the avoidance of doubt, excluded from the calculation of the Available Amount; minus

(b) an amount equal to the sum of (i) Restricted Payments made pursuant to Section 6.4(a)(iii)(B), plus (ii) Restricted Debt Payments made pursuant to Section 6.4(b)(iv)(B), plus (iii) Investments made pursuant to Section 6.6(q)(ii), in each case, after the Closing Date and prior to such time or contemporaneously therewith.

"Authorized Person" means a US Authorized Person or a UK Authorized Person, as the context requires.

"Bail-In Action" means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

"Bail-In Legislation" means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

"Bank Product" means a UK Bank Product or a US Bank Product, as the context requires.

"Bank Product Agreements" means UK Bank Product Agreements or US Bank Product Agreements, as the context requires.

"Bank Product Collateralization" means UK Bank Product Collateralization or US Bank Product Collateralization, as the context requires.

"Bank Product Obligations" means UK Bank Product Obligations or US Bank Product Obligations, as the context requires.

"Bank Product Provider" means Wells Fargo or any of its Affiliates, including each of the foregoing in its capacity, if applicable, as a Hedge Provider.

"Bank Product Reserves" means UK Bank Product Reserves or US Bank Product Reserves, as the context requires.

"Bankruptcy Code" means title 11 of the United States Code, as in effect from time to time.

"Bona Fide Debt Fund" means a debt fund, investment vehicle, regulated bank entity or a regulated lending entity that is engaged in making, purchasing, holding, or otherwise investing in commercial loans or similar extensions of credit in the ordinary course of business.

"Base Rate" means the greatest of (a) one percent (1%) per annum, (b) the Federal Funds Rate *plus* ½%, (c) the LIBOR Rate (which rate shall be calculated based upon an Interest Period of one month and shall be determined on a daily basis), *plus* one percentage point, and (d) the rate of interest announced, from time to time, within Wells Fargo at its principal office in San Francisco as its "prime rate", with the understanding that the "prime rate" is one of Wells Fargo's base rates (not necessarily the lowest of such rates) and serves as the basis upon which effective rates of interest are calculated for those loans making reference thereto and is evidenced by the recording thereof after its announcement in such internal publications as Wells Fargo may designate (and, if any such announced rate is below zero, then the rate determined pursuant to this clause (d) shall be deemed to be zero).

"Base Rate Loan" means each portion of the Revolving Loans that bears interest at a rate determined by reference to the Base Rate.

"Base Rate Margin" has the meaning set forth in the definition of Applicable Margin.

"Beneficial Ownership Certification" means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

"Beneficial Ownership Regulation" means 31 CFR § 1010.230.

"Board of Directors" means, as to any Person, the board of directors (or comparable managers) of such Person, or any committee thereof duly authorized to act on behalf of the board of directors (or comparable managers).

"Board of Governors" means the Board of Governors of the Federal Reserve System of the United States (or any successor).

"Borrower" and "Borrowers" have the respective meanings specified therefor in the Preamble hereto.

"Borrower Materials" has the meaning specified therefor in Section 17.9(c) of this Agreement.

"Borrowing" means a US Borrowing, or a UK Borrowing, as the context requires.

"Borrowing Base" means the US Borrowing Base or the UK Borrowing Base, as the context requires.

"Borrowing Base Certificate" means a consolidated Borrowing Base certificate in the form of Exhibit B-1.

"Brundage Pumping" has the meaning assigned in the Preamble hereto.

"Business Day" means any day that is not a Saturday, Sunday, or other day on which banks are authorized or required to close in the state of California or New York, except that, if a determination of a Business Day shall relate to a LIBOR Rate Loan or a UK Revolving Loan, the term "Business Day" also shall exclude any day on which banks are closed for dealings in the London interbank market.

"Buyer" has the meaning assigned in the Recitals hereto.

"Buyer Trust Funds" has the meaning assigned in the Recitals hereto.

"Camfaud Concrete" has the meaning assigned in the Preamble hereto.

"Capital Expenditures" means, with respect to any Person for any period, the amount of all expenditures by such Person and its Subsidiaries during such period that are capital expenditures as determined in accordance with GAAP, whether such expenditures are paid in cash or financed, but excluding, without duplication (a) expenditures made during such period in connection with the replacement, substitution, or restoration of assets or properties pursuant to Section 2.08(b)(ii) of the Term Loan Facility Agreement as in effect on the Closing Date, (b) with respect to the purchase price of assets that are purchased substantially contemporaneously with the trade-in of existing assets during such period, the amount that the gross amount of such purchase price is reduced by the credit granted by the seller of such assets for the assets being traded in at such time, (c) expenditures made during such period to the extent made with the identifiable proceeds of an equity investment in Holdings or any of its Subsidiaries, which equity investment is made substantially contemporaneously with the making of the expenditure, (d) capitalized software development costs to the extent such costs are deducted from net earnings under the definition of EBITDA or Consolidated Adjusted EBITDA, as applicable for such period, (e) expenditures during such period that, pursuant to a written agreement, are reimbursed by a third Person (excluding Holdings or any of its Affiliates), and (f) expenditures made during such period to consummate one or more Permitted Acquisitions. Notwithstanding anything to the contrary, it is agreed, that for the purpose of calculating the Fixed Charge Coverage Ratio for any period that includes the fiscal quarters ended on or about October 31, 2017, January 31, 2018, April 30, 2018 and July 31, 2018, (i) Capital Expenditures for the fiscal quarter ended on or about October 31, 2017 shall be deemed to be $9,419,211, (ii) Capital Expenditures for the fiscal quarter ended on or about January 31, 2018 shall be deemed to be $5,885,376, (iii) Capital Expenditures for the fiscal quarter ended on or about April 30, 2018 shall be deemed to be $5,765,870, and (iv) Capital Expenditures for the fiscal quarter ended on or about July 31, 2018 shall be deemed to be $9,317,140, in each case, as adjusted on a Pro Forma Basis, as applicable.

"Capital Lease" means a lease that is required to be capitalized for financial reporting purposes in accordance with GAAP.

"Capital Stock" means any and all shares, interests, participations, preferred equity certificates or other equivalents (however designated) of capital stock of a corporation or limited liability company (if applicable), any and all equivalent ownership interests in a Person (other than a corporation or limited liability company, if applicable), including partnership interests and membership interests, and any and all warrants, profit participation interests, rights or options to purchase or other arrangements or rights to acquire any of the foregoing, but excluding, for the avoidance of doubt, any Indebtedness convertible into or exchangeable for any of the foregoing.

"Capitalized Lease Obligation" means that portion of the obligations under a Capital Lease that is required to be capitalized in accordance with GAAP.

"Cash Equivalents" means (a) marketable direct obligations issued by, or unconditionally guaranteed by, the United States or issued by any agency thereof and backed by the full faith and credit of the United States, in each case maturing within 1 year from the date of acquisition thereof, (b) marketable direct obligations issued or fully guaranteed by any state of the United States or any political subdivision of any such state or any public instrumentality thereof maturing within 1 year from the date of acquisition thereof and, at the time of acquisition, having one of the two highest ratings obtainable from either Standard & Poor's Rating Group ("S&P") or Moody's Investors Service, Inc. ("Moody's"), (c) commercial paper maturing no more than 270 days from the date of creation thereof and, at the time of acquisition, having a rating of at least A-1 from S&P or at least P-1 from Moody's, (d) certificates of deposit, time deposits, overnight bank deposits or bankers' acceptances maturing within 1 year from the date of acquisition thereof issued by any bank organized under the laws of the United States or any state thereof or the District of Columbia or any United States branch of a foreign bank having at the date of acquisition thereof combined capital and surplus of not less than $1,000,000,000, (e) Deposit Accounts maintained with (i) any bank that satisfies the criteria described in clause (d) above, or (ii) any other bank organized under the laws of the United States or any state thereof so long as the full amount maintained with any such other bank is insured by the Federal Deposit Insurance Corporation, (f) repurchase obligations of any commercial bank satisfying the requirements of clause (d) of this definition or of any recognized securities dealer having combined capital and surplus of not less than $1,000,000,000, having a term of not more than seven days, with respect to securities satisfying the criteria in clauses (a) or (d) above, (g) debt securities with maturities of six months or less from the date of acquisition backed by standby letters of credit issued by any commercial bank satisfying the criteria described in clause (d) above, and (h) Investments in money market funds substantially all of whose assets are invested in the types of assets described in clauses (a) through (g) above.

"Cash Management Services" means any cash management or related services including treasury, depository, return items, overdraft, controlled disbursement, merchant store value cards, e-payables services, electronic funds transfer, interstate depository network, automatic clearing house transfer (including the Automated Clearing House processing of electronic funds transfers through the direct Federal Reserve Fedline system) and other cash management arrangements.

"Certificate of Title" means a certificate of title or a manufacturer's statement of origin with respect to a unit of Rolling Stock.

"CFC" means a controlled foreign corporation (as that term is defined in the IRC) in which any Loan Party is a "United States shareholder" within the meaning of Section 951(b) of the IRC.

"Change in Law" means the occurrence after the date of this Agreement of: (a) the adoption or effectiveness of any law, rule, regulation, judicial ruling, judgment or treaty, (b) any change in any law, rule, regulation, judicial ruling, judgment or treaty or in the administration, interpretation, implementation or application by any Governmental Authority of any law, rule, regulation, guideline or treaty, or (c) the making or issuance by any Governmental Authority of any request, rule, guideline or directive, whether or not having the force of law; provided that notwithstanding anything in the Agreement to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives concerning capital adequacy promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities shall, in each case, be deemed to be a "Change in Law," regardless of the date enacted, adopted or issued.

"Change of Control" means the earliest to occur of:

(a) the acquisition by any person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act), including any group acting for the purpose of acquiring, holding or disposing of Securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act, but excluding any employee benefit plan and/or person acting as the trustee, agent or other fiduciary or administrator therefor), other than one or more Permitted Holders, of capital stock representing more than the greater of (x) 35% of the total voting power of all of the outstanding voting Equity Interests of Holdings and (y) the percentage of the total voting power of all the outstanding voting Equity Interests of Holdings owned, directly or indirectly, by the Permitted Holders;

(b) occupation of a majority of the seats (other than vacant seats) on the Board of Directors of Holdings by Persons who were not directors of Holdings on the date of this Agreement, or nominated or appointed by the Board of Directors of Holdings;

(c) each Borrower ceasing to be a direct or indirect Wholly-Owned Subsidiary of Holdings or Intermediate Holdings (except in connection with a transaction permitted hereunder); or

(d) the occurrence of any "Change in Control" as defined in the Term Loan Facility Agreement.

"Charge" means any loss (as defined under GAAP), charge, fee, expense, cost, accrual or reserve of any kind.

"CIS Regulations" means the Income Tax (Construction Industry Scheme) Regulations 2005.

"Claim" has the meaning specified therefor in Section 12(c) of this Agreement.

"Closing Date" means the date of the making of the initial Revolving Loan (or other extension of credit) under this Agreement.

"Closing Date Investor Equity Contribution" has the meaning assigned in the Recitals hereto.

"Closing Date Investors" has the meaning assigned in the Preamble hereto.

"Closing Date Revolving Loans" has the meaning specified therefor in Section 2.1(a) of the Agreement.

"Code" means the New York Uniform Commercial Code, as in effect from time to time.

"Collateral" means all assets and interests in assets and proceeds thereof now owned or hereafter acquired by Holdings or its Subsidiaries in or upon which a Lien is granted by such Person in favor of Agent, UK Security Agent or the Lenders under any of the Loan Documents.

"Collateral Access Agreement" means a landlord waiver, bailee letter, or acknowledgement agreement of any lessor, warehouseman, processor, consignee, or other Person in possession of, having a Lien upon, or having rights or interests in any Borrower's or its Subsidiaries' books and records, Equipment, Rolling Stock or Inventory, in each case, in form and substance reasonably satisfactory to Agent.

"Collateral and Guarantee Requirement" means, at any time, subject to (x) the applicable limitations set forth in this Agreement and/or any other Loan Document and (y) the time periods (and extensions thereof) set forth in Section 5.12, the requirement that the Agent shall have received in the case of any Restricted Subsidiary that is required to become a Loan Party after the Closing Date (including by ceasing to be an Excluded Subsidiary):

(A) (1) a joinder to the US Guaranty and Security Agreement or UK Guarantee and Debenture in substantially the forms attached as an exhibit thereto, (2) if the respective Restricted Subsidiary required to comply with the requirements set forth in this definition pursuant to Section 5.12 owns registrations of or applications for U.S. patents, trademarks and/or copyrights or exclusive licenses to U.S. copyrights that constitute Collateral, a Patent Security Agreement in substantially the form attached as Exhibit B to the US Guaranty and Security Agreement, a Trademark Security Agreement in substantially the form attached as Exhibit D to the US Guaranty and Security Agreement, or a Copyright Security Agreement in substantially the form attached as Exhibit A to the US Guaranty and Security Agreement, (3) a completed Perfection Certificate, (4) Uniform Commercial Code financing statements in appropriate form for filing in such jurisdictions as the Agent may reasonably request and (5) an executed joinder to the Intercreditor Agreement in substantially the form attached as an exhibit thereto; and

(B) each item of Collateral required to be delivered under Section 7 of the US Guaranty and Security Agreement (which, for the avoidance of doubt, shall be delivered within the time periods set forth in Section 5.12(a)).

"Commitment" means, with respect to each US Lender, its US Revolver Commitment and with respect to each UK Lender, its UK Revolver Commitment, as the context requires, and, with respect to all US Lenders, their US Revolver Commitments, with respect to all UK Lenders or their UK Revolver Commitments, in each case as such Dollar Equivalent amounts are set forth beside such Lender's name under the applicable heading on Schedule C-1 to the Agreement or in the Assignment and Acceptance pursuant to which such Lender became a Lender under the Agreement, as such amounts may be reduced or increased from time to time pursuant to assignments made in accordance with the provisions of Section 13.1 of the Agreement.

"Commitment Letter" means that certain Commitment Letter dated September 7, 2018, by and between Concrete Merger Sub and Wells Fargo, as amended, amended and restated, restated, supplemented, modified or otherwise in effect from time to time.

"Commodity Exchange Act" means the Commodity Exchange Act (7 USC. § 1 et seq.), as amended from time to time, and any successor statute.

"Company Competitor" means any competitor of Concrete Merger Sub and/or any of its subsidiaries and/or Holdings and/or any of its subsidiaries.

"Compliance Certificate" means a certificate substantially in the form of Exhibit C-1 to the Agreement delivered by the chief financial officer of Holdings to Agent.

"Compliance Period" means the period (a) commencing on the date that Excess Availability is at any time less than the greatest of (i) 10% of the Line Cap, (ii) $5,000,000 and (iii) 12.5% of the UK Borrowing Base, and (b) continuing until, during each of the preceding 30 consecutive days, Excess Availability has been greater than (i) 12.5% of the Line Cap, (ii) $5,000,000 and (iii) 12.5% of the UK Borrowing Base.

"Concrete Merger Sub" has the meaning specified therefor in the Preamble hereto.

"Concrete Pumping Acquisition" has the meaning assigned in the Recitals hereto.

"Concrete Pumping Acquisition Agreement" has the meaning assigned in the Recitals hereto.

"Confidential Information" has the meaning specified therefor in Section 17.9(a) of the Agreement.

"Consolidated Adjusted EBITDA" means, as to any Person on a consolidated basis for any period, the sum of:

(a) Consolidated Net Income for such period; plus

(b) the sum, without duplication, of (to the extent deducted (and not added back) in calculating Consolidated Net Income, other than in respect of clauses (ix), (xv) and (xvi) below) the amounts of:

(i) Taxes paid and any provision for Taxes, including income, capital, state, franchise and similar Taxes, property Taxes and foreign withholding Taxes (including (i) penalties and interest related to any such Tax or arising from any Tax examination and (ii) pursuant to any Tax sharing arrangement, in each case as permitted by Section 6.04(a)(i)(A) of the Term Loan Facility Agreement or Section 6.04(a)(i)(B) of the Term Loan Facility Agreement of such Person paid or accrued during such period;

(ii) consolidated interest expense whether paid or accrued and whether or not capitalized in respect of such period (including (A) fees and expenses paid or payable to the Term Loan Agent in connection with its services under the Term Loan Facility Agreement (and to each agent under this Agreement in connection with its services thereunder), (B) amortization of debt issuance cost and/or original issue discount resulting from the issuance of Indebtedness at less than par and other bank, administrative agency (or trustee) and financing fees, (C) the interest component of Capitalized Lease obligations, (D) costs of surety bonds in connection with financing activities, (E) commissions, discounts and other fees, expenses and charges paid or owed with respect to letters of credit, bank guarantees, bankers' acceptances, ancillary facilities or any similar facilities or financing and hedging agreements and (F) any interest cost or expected return on any plan assets related to any post-employment benefit scheme or any other pension-related items and any curtailments or settlements related thereto);

(iii) (A) depreciation, amortization (including, without limitation, amortization of goodwill, software and other intangible assets), (B) any impairment Charge (including any non-cash Charge related to the impairment of goodwill and other assets) and (C) any asset write-off and/or write-down (other than write-offs or write-downs of inventory and accounts receivable in the ordinary course of business);

(iv) (A) Transaction Costs (including costs in connection with payments related to the rollover, acceleration or payout of equity interest and stock options held by management and members of the board of the Target and its subsidiaries), (B) Charges incurred (1) in connection with the consummation of any transaction (or any transaction proposed and not consummated), not prohibited by the Term Loan Facility Agreement, including any issuance or offering of Capital Stock any Investment, any Disposition, any recapitalization, any merger, consolidation or amalgamation, any option buyout or any incurrence, repayment, refinancing, amendment or modification of Indebtedness (including any amortization or write-off of debt issuance or deferred financing costs, premiums and prepayment penalties) or similar transaction and/or (2) in connection with any Qualifying Offering (whether or not consummated) and (C) the amount of any Charge that is actually reimbursed or reimbursable by one or more third parties pursuant to indemnification or reimbursement provisions or similar agreements or insurance; provided that in respect of any Charge that is added back in reliance on clause (C) above, the relevant Person in good faith expects to receive reimbursement for such fee, cost, expense or reserve within the next four Fiscal Quarters (it being understood that to the extent any reimbursement amount is not actually received within such Fiscal Quarters, such reimbursement amount shall be deducted in calculating Consolidated Adjusted EBITDA for such Fiscal Quarters);

(v) any Charge attributable to the undertaking and/or implementation of cost savings, operating expense reductions and/or synergies (including, without limitation, in connection with any integration or transition, any reconstruction, decommissioning, recommissioning or reconfiguration of fixed assets for alternative uses, any facility opening and/or pre-opening, any inventory optimization program and/or any curtailment), any business optimization Charge, any restructuring Charge (including any Charge relating to any Tax restructuring), any Charge relating to the closure or consolidation of any facility (including but not limited to severance, rent termination costs, moving costs and legal costs), any systems implementation Charge, any Charge relating to entry into a new market, any Charge relating to any strategic initiative, any consulting Charge, any signing Charge, any retention or completion bonus, any expansion and/or relocation Charge, any Charge associated with any modification to any pension and post-retirement employee benefit plan, any Charge associated with new systems design, any implementation Charge and/or any project startup Charge;

(vi) other add-backs and adjustments reflected in the model delivered to the Arranger on May 27, 2018;

(vii) the amount of any Charge or deduction associated with any subsidiary of such Person attributable to non-controlling interests or minority interests of third parties;

(viii) the amount of any loss from (i) extraordinary items and (ii) non-recurring (including non-recurring credit expense) or unusual items (including costs of, and payments of, (x) litigation expenses, actual or prospective legal settlements, fines, judgments or orders, (y) recruitment and hiring bonuses and legal fees and Taxes related to issuances of significant options and (z) corporate reorganizations);

(ix) the amount of any expected pro forma "run rate" cost savings, operating expense reductions and synergies (collectively, "Expected Cost Savings") (net of actual amounts realized) that are reasonably identifiable and factually supportable (in the good faith determination of such Person, as certified by a Responsible Officer of such Person) related to (A) the Transactions and (B) any acquisition, divestiture, permitted Investment, Disposition, operating improvement, restructuring, cost savings initiative, any similar initiative and/or specified transaction, whether before or after the Closing Date (any such operating improvement, restructuring, cost savings initiative or similar initiative or specified transaction, a "Cost Saving Initiative"); provided that, the results of such Expected Cost Savings and/or Cost Saving Initiatives are projected by the Target in good faith to result from actions that have been taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Target) within 12 months after (i) with respect to the Transactions, the Closing Date and (ii) with respect to any Cost Saving Initiative, the date of such operating improvement, restructuring, cost savings initiative or similar initiative or specified transaction (it being understood that pro forma "run rate" being the full benefit associated with any action taken or with respect to which substantial steps have been taken or are expected to be taken as though such Expected Cost Savings had been fully realized on the first date of the applicable Test Period for the entirety of such Test Period); provided, further that the aggregate amount added to or included in Consolidated Adjusted EBITDA pursuant to this clause (ix) shall not, for any Test Period, exceed an amount equal to 25% of Consolidated Adjusted EBITDA for such Test Period, calculated before giving effect to any such add-backs or inclusion;

(x) (A) any Charge incurred as a result of, in connection with or pursuant to any management equity plan, profits interest or stock option plan or any other management or employee benefit plan or agreement, any pension plan (including any post-employment benefit scheme which has been agreed to with the relevant pension trustee), any stock subscription or shareholder agreement, any employee benefit trust, any employee benefit scheme or any similar equity plan or agreement, (B) any Charges in connection with the rollover (including any deferred compensation agreement), acceleration or payout (including in the form of dividends or distributions) of Capital Stock held by management and members of the board of directors of any Parent Company, Holdings, Intermediate Holdings, CP Holdings LLC, Target and/or any of its subsidiaries, in each case, to the extent that (in the case of any cash Charges) such Charges, are funded with net cash proceeds contributed to the Subject Person as a capital contribution or as a result of the sale or issuance of Capital Stock (other than Disqualified Capital Stock) of the Subject Person and (C) the amount of travel and other expenses, payroll taxes, indemnification payments, director's fees and any other Charges incurred in connection with, or amounts payable to, any director of the board of Holdings or its parent entities in connection with such director serving as a member of such board of directors and performing his or her duties in respect thereof;

(xi) any earn-out obligation incurred or accrued in connection with the Acquisition, any acquisition and/or other Investment permitted pursuant to Section 6.06 of the Term Loan Facility Agreement and paid or accrued during such period and on similar acquisitions and Investments completed prior to the Closing Date;

(xii) Public Company Costs;

(xiii) any non-cash Charge (provided that to the extent that any such non-cash Charge represents an accrual or reserve for any potential cash item in any future period, (A) such Person may elect not to add back such non-cash Charge in the current period or (B) to the extent such Person elects to add back such non-cash Charge, the cash payment in respect thereof in such future period shall be subtracted from Consolidated Adjusted EBITDA to such extent);

(xiv) the amount of any Charge in connection with a single or one-time event, including, in connection with (A) the Acquisition, any acquisition or similar Investment permitted hereunder after the Closing Date (including without limitation, legal, accounting and other professional fees and expenses incurred in connection with acquisitions and other Investments made prior to the Closing Date), (B) the consolidation, closing or reconfiguration of any facility during such period and (C) one-time consulting costs;

(xv) to the extent not otherwise included in Consolidated Net Income, proceeds of business interruption insurance in an amount representing the earnings for the applicable period that such proceeds are intended to replace (whether or not received so long as such Person in good faith expects to receive the same within the next four Fiscal Quarters (it being understood that to the extent not actually received within such Fiscal Quarters, such proceeds shall be deducted in calculating Consolidated Adjusted EBITDA for such Fiscal Quarters));

(xvi) cash actually received (or any netting arrangements resulting in reduced Cash expenditure) during such period, and not included in Consolidated Net Income, to the extent that the non-cash gain relating to such cash receipt or netting arrangement was deducted in the calculation of Consolidated Adjusted EBITDA pursuant to clause (c)(i) below for any previous period and not added back; and

(xvii) amounts paid or accrued in respect of Sponsor Fees to the extent permitted pursuant to Section 6.08(o) of the Term Loan Facility Agreement; minus

(c) to the extent such amounts increase Consolidated Net Income:

(i) non-cash gains or income; provided that if any non-cash gain or income relates to potential cash items in any future period, such Person may determine not to deduct such non-cash gain or income in the current period;

(ii) the amount added back to Consolidated Adjusted EBITDA pursuant to clause (b)(iv)(C) above (as described in such clause) to the extent such reimbursement amounts were not received within the time period required by such clause;

(iii) the amount added back to Consolidated Adjusted EBITDA pursuant to clause (b)(xv) above (as described in such clause) to the extent such business interruption insurance proceeds were not received within the time period required by such clause;

(iv) to the extent that such Person added back the amount of any non-cash charge to Consolidated Adjusted EBITDA pursuant to clause (b)(xiii) above in respect of any previous period, the subsequent cash payment in respect thereof;

(v) the amount of any gain from (i) extraordinary items and (ii) non-recurring (including non-recurring credit expense) or unusual items (including costs of, and payments of, (x) litigation expenses, actual or prospective legal settlements, fines, judgments or orders, (y) recruitment and hiring bonuses and legal fees and Taxes related to issuances of significant options and (z) corporate reorganizations); and

(vi) the amount of any gain in connection with a single or one-time event.

Notwithstanding anything to the contrary, it is agreed, that for the purpose of calculating the Total Leverage Ratio, the First Lien Leverage Ratio and the Secured Leverage Ratio for any period that includes the Fiscal Quarters ended on or about October 31, 2017, January 31, 2018, April 30, 2018 and July 31, 2018, (i) Consolidated Adjusted EBITDA for the Fiscal Quarter ended on or about October 31, 2017 shall be deemed to be $23,000,000, (ii) Consolidated Adjusted EBITDA for the Fiscal Quarter ended on or about January 31, 2018 shall be deemed to be $17,500,000, (iii) Consolidated Adjusted EBITDA for the Fiscal Quarter ended on or about April 30, 2018 shall be deemed to be $20,900,000, and (iv) Consolidated Adjusted EBITDA for the Fiscal Quarter ended on or about July 31, 2018 shall be deemed to be $21,700,000, in each case, as adjusted on a Pro Forma Basis, as applicable.

Unless otherwise stated or context clearly dictates otherwise, references to Consolidated Adjusted EBITDA shall refer to the Consolidated Adjusted EBITDA of the Target and its Restricted Subsidiaries. Defined terms used in this definition shall have the meanings ascribed to such terms in the Term Loan Facility Agreement as in effect on the Closing Date unless otherwise noted.

"Consolidated Net Income" means, as to any Person (the "Subject Person") for any period, the net income (or loss) of the Subject Person on a consolidated basis for such period taken as a single accounting period determined in conformity with GAAP; provided that there shall be excluded, without duplication,

(a) the cumulative effect of any change in accounting principles during such period,

(b) any net gains or Charges (as defined in the Term Loan Agreement as in effect on the Closing Date) with respect to (i) disposed, abandoned, closed and discontinued operations (other than, at the option of the Target, any operations pending the disposal, abandonment, divestiture and/or termination thereof) and any accretion or accrual of discounted liabilities and on the disposal of disposed, abandoned, and discontinued operations and/or (ii) any facilities, plants or distribution centers that have been closed during such period,

(c) gains, income, losses, expenses or charges (less all fees and expenses chargeable thereto) attributable to any sales or dispositions of Capital Stock or assets (including asset retirement costs) or returned surplus assets of any employee benefit plan, in each case, outside of the ordinary course of business,

(d) (i) the income of any Person (other than a subsidiary of the Subject Person) in which any other Person (other than the Subject Person or any of its subsidiaries) has a joint interest, except to the extent of the amount of dividends or distributions or other payments (including any ordinary course dividend, distribution or other payment) paid in cash (or to the extent converted into cash) to the Subject Person or any of its subsidiaries by such Person during such period and (ii) the loss of any Person (other than a subsidiary of the Subject Person) in which any other Person (other than the Subject Person or any of its subsidiaries) has a joint interest, other than to the extent that the Subject Person or any of its subsidiaries has contributed cash or Cash Equivalents to such person in respect of such loss during such period,

(e) effects of adjustments (including the effects of such adjustments pushed down to the Subject Person and its Restricted Subsidiaries) in the Subject Person's consolidated financial statements pursuant to GAAP (including in the inventory, property and equipment, software, goodwill, intangible assets, in-process research and development, deferred revenue, deferred rent and debt line items thereof) resulting from the application of recapitalization accounting or acquisition accounting, as the case may be, in relation to the Transactions or any consummated acquisition or the amortization or write-off of any amounts thereof,

(f) any net income or loss (less all fees and expenses or charges related thereto) attributable to the early extinguishment of Indebtedness (and the termination of any associated Hedge Agreements),

(g) any (i) write-off or amortization made in such period of deferred financing costs and premiums paid or other expenses incurred directly in connection with any early extinguishment of Indebtedness, (ii) good will or other asset impairment charges, write-offs or write-downs or (iii) amortization of intangible assets,

(h) any non-cash compensation charge, cost, expense, accrual or reserve, including any such charge, cost, expense, accrual or reserve arising from the grant of stock appreciation or similar rights, stock options, restricted stock or other equity incentive programs, and any cash charges associated with the rollover, acceleration or payment of management equity in connection with the Transactions,

(i) any fees, commissions and expenses incurred during such period, or any amortization or write-off thereof for such period in connection with any Investment, Disposition, incurrence or repayment of Indebtedness, issuance of Capital Stock, refinancing transaction or amendment or modification of any Indebtedness (in each case, including any such transaction consummated prior to the Closing Date and any such transaction undertaken but not completed) and any charges or non-recurring merger costs incurred during such period as a result of any such transaction,

(j) accruals and reserves that are established or adjusted within 12 months after (i) the Closing Date that are so required to be established or adjusted as a result of the Transactions and (ii) the date of any Permitted Acquisition or other similar Investment permitted pursuant to Section 6.06 of the Term Loan Agreement as in effect on the Closing Date, in each case, in accordance with GAAP or as a result of the adoption or modification of accounting policies,

(k) any realized or unrealized foreign currency exchange gain or loss (including any currency re-measurement of Indebtedness, any net gain or loss resulting from Hedge Agreements for currency exchange risk associated with the foregoing or any other currency related risk and any gain or loss resulting from intercompany Indebtedness),

(l) any unrealized gain or loss in respect of the fair market value of (x) any obligation under any Hedge Agreement as determined in accordance with GAAP and/or (y) any other derivative instrument pursuant to, in the case of this clause (y), FASB ASC No. 815 – Derivatives and Hedging,

(m) solely for the purpose of determining the Available Amount, the net income for such period of any subsidiary (other than any Subsidiary Guarantor (as defined in the Term Loan Agreement as in effect on the Closing Date), to the extent the declaration or payment of dividends or similar distributions by that subsidiary of its net income is not at the date of determination permitted without any prior governmental approval (which has not been obtained) or, directly or indirectly, by the operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule, or governmental regulation applicable to that subsidiary or its stockholders, unless such restriction with respect to the payment of dividends or similar distributions has been legally waived; provided that Consolidated Net Income will be increased by the amount of dividends or other distributions or other payments actually paid in cash (or to the extent converted into cash) to the Subject Person or a subsidiary thereof in respect of such period, to the extent not already included therein, and

(n) solely for purposes of calculating Excess Cash Flow (as defined in the Term Loan Agreement as in effect on the Closing Date), the income or loss of any Person accrued prior to the date on which such Person becomes a Restricted Subsidiary of such Person or is merged into or consolidated with such Person or any Restricted Subsidiary of such Person or the date that such other Person's assets are acquired by such Person or any Restricted Subsidiary of such Person.

Unless otherwise stated or context clearly dictates otherwise, references to Consolidated Net Income shall refer to the Consolidated Net Income of the Borrowers and their Restricted Subsidiaries.

"Consolidated Total Assets" means, at any date, all amounts that would, in conformity with GAAP, be set forth opposite the caption "total assets" (or any like caption) on a consolidated balance sheet of the applicable Person at such date; provided that, at all times prior to the first delivery of financial statements pursuant to Section 5.1(a) or (b), this definition shall be applied based on the pro forma balance sheet of Holdings delivered pursuant to Section 3.1.

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

"Contribution Notice" means a contribution notice issued by the Pensions Regulator under section 38 or section 47 of the Pensions Act 2004 (UK).

"Controlled Account Agreement" has the meaning specified therefor in the US Guaranty and Security Agreement.

"Copyright Security Agreement" has the meaning specified therefor in the US Guaranty and Security Agreement.

"Cost Saving Initiative" has the meaning specified in the definition of "Consolidated Adjusted EBITDA".

"Court" has the meaning specified therefor in Section 12(f) of this Agreement.

"CP Holdings LLC" means Concrete Pumping Intermediate Holdings, LLC, a Delaware limited liability company.

"CTA" means the United Kingdom Corporation Tax Act 2009.

"Curative Equity" means common equity (or other form of equity reasonably acceptable to Agent) contributions to Holdings in immediately available funds which Holdings contributes as additional common equity (or such other form of equity reasonably acceptable to Agent) contributions to Borrowers in immediately available funds and which is designated "Curative Equity" by Borrowers under Section 9.3 of the Agreement at the time it is contributed. For the avoidance of doubt, the forgiveness of antecedent debt (whether Indebtedness, trade payables, or otherwise) shall not constitute Curative Equity.

"Debtor Relief Laws" means (a) the Bankruptcy Code, (b) the Insolvency Act 1986 (UK), (c) the Enterprise Act 2002 (UK) and (d) and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, compromise, arrangement or similar debtor relief laws of the United States, the United Kingdom, the European Union or other applicable jurisdictions from time to time in effect, including the corporate statutes where such statute is used by a Person to propose an arrangement involving the compromise of the claims of creditors, and any law of any jurisdiction permitting a debtor to obtain a stay or a compromise of the claims of its creditors against it.

"Declined Proceeds" has the meaning set forth in the Term Loan Facility Agreement (as in effect on the Closing Date).

"Default" means an event, condition, or default that, with the giving of notice, the passage of time, or both, would be an Event of Default.

"Defaulting Lender" means any Lender that (a) has failed to (i) fund all or any portion of its Loans within two Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies Agent and Administrative Borrower in writing that such failure is the result of such Lender's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable Default or Event of Default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to Agent, Issuing Bank, or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit) within two Business Days of the date when due, (b) has notified any Borrower, Agent or Issuing Bank in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's determination that a condition precedent to funding (which condition precedent, together with any applicable Default or Event of Default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three Business Days after written request by Agent or Administrative Borrower, to confirm in writing to Agent and Administrative Borrower that it will comply with its prospective funding obligations hereunder (provided, that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by Agent and Administrative Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of any Insolvency Proceeding, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity, or (iii) become the subject of a Bail-in Action; provided, that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Equity Interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender upon delivery of written notice of such determination to Administrative Borrower, Issuing Bank, and each Lender.

"Defaulting Lender Rate" means (a) with respect to US Obligations, (i) for the first three days from and after the date the relevant payment is due, the Base Rate, and (ii) thereafter, the interest rate then applicable to US Revolving Loans that are Base Rate Loans (inclusive of the Base Rate Margin applicable thereto) and (b) with respect to UK Obligations, the interest rate then applicable to UK Revolving Loans.

"Delegate" means any delegate, agent, attorney, or co-trustee appointed by UK Security Agent.

"Deposit Account" means any deposit account (as that term is defined in the Code).

"Depreciation Policy" means the annual rate at which each UK Borrower charges depreciation against its assets and which has previously been agreed with its auditors and disclosed to Agent prior to the date of this Agreement.

"Derivative Transaction" means (a) any interest-rate transaction, including any interest-rate swap, basis swap, forward rate agreement, interest rate option (including a cap, collar or floor), and any other instrument linked to interest rates that gives rise to similar credit risks (including when-issued securities and forward deposits accepted), (b) any exchange-rate transaction, including any cross-currency interest-rate swap, any forward foreign-exchange contract, any currency option, and any other instrument linked to exchange rates that gives rise to similar credit risks, (c) any equity derivative transaction, including any equity-linked swap, any equity-linked option, any forward equity-linked contract, and any other instrument linked to equities that gives rise to similar credit risk and (d) any commodity (including precious metal) derivative transaction, including any commodity-linked swap, any commodity-linked option, any forward commodity-linked contract, and any other instrument linked to commodities that gives rise to similar credit risks; provided, that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees, members of management, managers or consultants of Holdings or its subsidiaries shall be a Derivative Transaction.

"Designated Account" means the US Designated Account or the UK Designated Account, as the context requires.

"Designated Account Bank" means the US Designated Account Bank or the UK Designated Account Bank, as the context requires.

"Designated Non-Cash Consideration" has the meaning specified therefor in the Term Loan Facility Agreement as in effect on the date hereof.

"Dilution" means a UK Dilution or a US Dilution, as the context requires.

"Dilution Reserve" means a UK Dilution Reserve or a US Dilution Reserve, as the context requires.

"Direction" has the meaning specified therefor in Section 16.5(b)(iv)(B) of this Agreement.

"Disbursement Letter" means a disbursement letter, dated as of even date herewith, in form and substance reasonably satisfactory to Agent, executed and delivered by each of the Borrowers.

"Disposition" or "Dispose" means the sale, lease, sublease, or other disposition of any property of any Person.

"Disposition Threshold Amount" has the meaning specified therefor in Section 6.7 of the Agreement.

"Disqualified Capital Stock" means any Capital Stock which, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, (a) matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable (other than for Qualified Capital Stock), pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof (other than for Qualified Capital Stock), in whole or in part, on or prior to 91 days following the Latest Maturity Date at the time such Capital Stock is issued (it being understood that if any such redemption is in part, only such part coming into effect prior to 91 days following the Latest Maturity Date shall constitute Disqualified Capital Stock), (b) is or becomes convertible into or exchangeable (unless at the sole option of the issuer thereof) for (i) debt securities or (ii) any Capital Stock that would constitute Disqualified Capital Stock, in each case at any time on or prior to 91 days following the Latest Maturity Date at the time such Capital Stock is issued, (c) contains any mandatory repurchase obligation or any other repurchase obligation at the option of the holder thereof (other than for Qualified Capital Stock), in whole or in part, which may come into effect prior to 91 days following the Latest Maturity Date at the time such Capital Stock is issued, or (d) provides for the scheduled payments of (but not accrual of) dividends required to be paid in cash on or prior to 91 days following the Latest Maturity Date at the time such Capital Stock is issued (it being understood that if any such repurchase obligation is in part, only such part coming into effect prior to 91 days following the Latest Maturity Date shall constitute Disqualified Capital Stock); provided that any Capital Stock that would not constitute Disqualified Capital Stock but for provisions thereof giving holders thereof (or the holders of any security into or for which such Capital Stock is convertible, exchangeable or exercisable) the right to require the issuer thereof to redeem such Capital Stock upon the occurrence of any change of control, Qualifying Offering (as defined in the Term Loan Facility Agreement) or any Disposition occurring prior to 91 days following the Latest Maturity Date at the time such Capital Stock is issued shall not constitute Disqualified Capital Stock, if such Capital Stock provides that the issuer thereof will not redeem any such Capital Stock pursuant to such provisions prior to the Termination Date (as defined in the Term Loan Facility Agreement).

Notwithstanding the preceding sentence, (A) if such Capital Stock is issued pursuant to any plan for the benefit of directors, officers, employees, members of management, managers or consultants or by any such plan to such directors, officers, employees, members of management, managers or consultants, in each case in the ordinary course of business of Holdings, Intermediate Holdings, CP Holdings LLC, the Borrowers or any Restricted Subsidiary (or any Parent Company or any subsidiary), such Capital Stock shall not constitute Disqualified Capital Stock solely because it may be required to be repurchased by the issuer thereof in order to satisfy applicable statutory or regulatory obligations and (B) no Capital Stock held by any future, present or former employee, director, officer, manager, member of management or consultant (or their respective Affiliates or Immediate Family Members) of any Borrower (or any Parent Company or any subsidiary) shall be considered Disqualified Capital Stock solely because such stock is redeemable or subject to repurchase pursuant to any management equity subscription agreement, stock option, stock appreciation right or other stock award agreement, stock ownership plan, put agreement, stockholder agreement or similar agreement that may be in effect from time to time.

"Disqualified Equity Interests" means any Equity Interests that, by their terms (or by the terms of any security or other Equity Interests into which they are convertible or for which they are exchangeable), or upon the happening of any event or condition (a) matures or are mandatorily redeemable (other than solely for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments), (b) are redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests), in whole or in part, (c) provide for the scheduled payments of dividends in cash, or (d) are or become convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is 180 days after the Maturity Date.

"Disqualified Institution" means:

(a) (i) any Person identified to the Lead Arranger on or prior to November 14, 2018, (ii) any Affiliate of any Person described in clause (a)(i) above that is identified in a written notice to the Lead Arranger (if after November 14, 2018, and prior to the Closing Date) or the Agent (if after the Closing Date) and (iii) any other Affiliate of any Person described in clause (a)(i) above reasonably identifiable as such based solely on its name; and/or

(b) (i) any Company Competitor and/or any Affiliate of any Company Competitor, in each case identified to the Arranger on or prior to November 14, 2018, (ii) any Company Competitor that is identified in writing and reasonably acceptable to the Arranger (if after November 14, 2018 and prior to the Closing Date) or the Agent (if after the Closing Date), (iii) any Affiliate of any Person described in clauses (b)(i) and/or (b)(ii) above reasonably identifiable as such based solely on its name and (iv) any other Affiliate of any Person described in clauses (b)(i), (ii) and/or (iii) above that is (x) identifiable based solely on the name of such Affiliate or (y) identified by a written notice to the Lead Arranger (or, after the Closing Date, to the Agent) after November 14, 2018 (it being understood and agreed that no Bona Fide Debt Fund may be designated as a Disqualified Institution pursuant to this clause (b));

it being understood and agreed that (x) no written notice may be delivered pursuant to clause (a)(ii), (b)(ii) and/or (b)(iv) above if a Specified Event of Default has occurred and is continuing, and if such written notice is delivered while a Specified Event of Default has occurred and is continuing, such written notice shall be deemed to be void and of no effect, and (y) no written notice delivered pursuant to clauses (a)(ii), (b)(ii) and/or (b)(iv) above shall apply retroactively to disqualify any person that has previously acquired an assignment or participation interest in the Loans.

"Dollar Equivalent" means, at any time, (a) with respect to any amount denominated in Dollars, such amount, and (b) with respect to any amount denominated in another currency (including, as applicable GBP), the equivalent amount thereof in Dollars as reasonably determined in good faith by Agent, at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date or such other date determined by Agent) for the purchase of Dollars with such currency.

"Dollars" or "$" means United States dollars.

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

"Domestic Subsidiary Holdco" means any Domestic Subsidiary substantially all of the assets of which are Equity Interests in and/or Indebtedness of Foreign Subsidiaries so long as such Subsidiary does not guarantee any other material Indebtedness of a US Person.

"Drawing Document" means any Letter of Credit or other document presented for purposes of drawing under any Letter of Credit, including by electronic transmission such as SWIFT, electronic mail, facsimile or computer generated communication.

"EBITDA" means, with respect to any fiscal period,

(a) Borrowers' and their respective Restricted Subsidiaries' consolidated net earnings (or loss),

minus

(b) without duplication, the sum of the following amounts of Borrowers and their respective Restricted Subsidiaries for such period to the extent included in determining consolidated net earnings (or loss) for such period:

(i) extraordinary gains,

(ii) interest income,

plus

(c) without duplication, the sum of the following amounts of Borrowers and their respective Restricted Subsidiaries for such period to the extent included in determining consolidated net earnings (or loss) for such period:

(i) non-cash extraordinary losses,

(ii) Interest Expense,

(iii) Taxes,

(iv) and depreciation and amortization for such period,

(v) expenses, fees and charges in connection with the Transactions and in connection with the transactions consummated on the Closing Date,

(vi) with respect to the Concrete Pumping Acquisition: (1) purchase accounting adjustments, including, without limitation, a dollar for dollar adjustment for that portion of revenue that would have been recorded in the relevant period had the balance of deferred revenue (unearned income) recorded on the closing balance sheet and before application of purchase accounting not been adjusted downward to fair value to be recorded on the opening balance sheet in accordance with GAAP purchase accounting rules; and (2) non-cash adjustments in accordance with GAAP purchase accounting rules under FASB Statement No. 141 and EITF Issue No. 01-3, in the event that such an adjustment is required by Holdings' independent auditors, in each case, as determined in accordance with GAAP,

(vii) management and director fees and expenses permitted to be paid or accrued in accordance with Section 6.8(i) of the Agreement,

(viii) the amount of any expenses in connection with any actual or proposed Investment (including any Permitted Acquisition), incurrence or repayment of Indebtedness, issuance of Equity Interests or Acquisition or Disposition outside the ordinary course of business to the extent such amount is acceptable to Agent,

(ix) expenses incurred to the extent covered by indemnification provisions in any agreement in connection with an Acquisition (including the Concrete Pumping Acquisition any Permitted Acquisition) to the extent reimbursed in cash and such indemnification payments are not otherwise included in EBITDA,

(x) proceeds from any business interruption insurance to the extent reimbursed in cash and such proceeds are not otherwise included in net earnings,

(xi) any unusual or nonrecurring items and any restructuring charges or reserves, including, without limitation, in connection with an acquisition made after the Closing Date (which, for the avoidance of doubt, shall include retention, severance, systems establishment costs, excess pension charges, contract and lease termination costs, and costs to consolidate facilities and relocate employees), in each case solely to the extent acceptable to Agent,

(xii) any non-cash charges resulting from the application of ASC 718 (formerly SFAS No. 123) and any other non-cash compensation charges or other non-cash expenses or charges arising from the grant of or issuance or repricing of stock, stock options or other equity based awards or any amendment, modification, substitution or change of any such stock, stock options or other equity based awards,

(xiii) all deferred financing costs written off, and premiums paid, in connection with any early extinguishment of Indebtedness,

(xiv) any purchase accounting adjustments (including, without limitation, the impact of writing up inventory, deferred marketing and deferred financing costs or deferred revenue at fair value), amortizations, impairments, write-offs, or non-cash charges with respect to purchase accounting with respect to any Acquisitions, Disposition, merger, consolidation, amalgamation or similar transactions on or after the Closing Date,

(xv) pro forma "run rate" cost savings, operating expense reductions and synergies related to the Transactions and other Acquisitions, Investments, Dispositions, divestitures, restructurings, operating improvements, cost savings initiatives and other similar initiatives and other "specified transactions" that are reasonably identifiable and factually supportable and projected by the Borrowers in good faith to result from actions that have been taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Borrowers) within 12 months after the Closing Date (in the case of the Transactions) or such transaction (in the case of any other transaction, initiative or event), calculated on a *pro forma* basis as though such cost savings, operating expense reductions and synergies had been fully realized on the first day of the applicable period for the entirety of such period; provided that the aggregate amount added back to pursuant to this clause (xv) in any four-fiscal quarter period (together with any amounts added back pursuant to clause (xvi) and clause (xvii) below) shall not exceed the sum of (A) 20% of EBITDA for such period plus (B) $5,000,000,

(xvi) the amount of any restructuring and related charges actually incurred by the Loan Parties; provided that the aggregate amount added back to pursuant to this clause (xvi) in any four-fiscal quarter period (together with any amounts added back pursuant to clause (xv) above and clause (xvii) below) shall not exceed the sum of (A) 20% of EBITDA for such period plus (B) $5,000,000,

(xvii) the amount of fees, costs, expenses and other charges incurred in connection with Acquisitions (including any Permitted Acquisitions), Investments, Dispositions, debt and equity issuances permitted under the Loan Documents and amendments or waivers to the Loan Documents and other debt or equity agreements; provided that the aggregate amount added back pursuant to this clause (xvii) in any four-fiscal quarter period (together with any amounts added back pursuant to clause (xv) and clause (xvi) above) shall not exceed the sum of (A) 20% of EBITDA for such period plus (B) $5,000,000,

(xviii) the amount of any extraordinary, unusual or non-recurring losses, charges or expenses,

(xix) without duplication of any other foregoing clause, adjustments, exclusions and add-backs reflected in the Projections delivered to Agent prior to the Closing Date, and

(xx) charges of Holdings, Intermediate Holdings, Target or its subsidiaries associated with, or in anticipation of, or preparation for, compliance with the requirements of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith and charges relating to compliance with the provisions of the Securities Act and the Exchange Act (and, in each case, similar Requirements of Law under other jurisdictions), as applicable to companies with equity or debt securities held by the public, the rules of national securities exchange companies with listed equity or debt securities, directors' or managers' compensation, fees and expense reimbursement, indemnities, disbursements, charges relating to investor relations, shareholder meetings and reports to shareholders or debtholders, directors' and officers' insurance and other executive costs, legal and other professional fees and listing fees, in each case incurred within twelve (12) months of the Closing Date,

in each case, determined on a consolidated basis in accordance with GAAP.

For the purposes of calculating EBITDA for any Reference Period, if at any time during such Reference Period (and after the Closing Date), Holdings or any of its Subsidiaries shall have made a Permitted Acquisition or any Investment, EBITDA for such Reference Period shall be calculated after giving *pro forma* effect thereto (including *pro forma* adjustments arising out of events which are directly attributable to such Permitted Acquisition or any other Investment, are factually supportable, and are expected to have a continuing impact, in each case to be mutually and reasonably agreed upon by Borrowers and Agent or in such other manner reasonably acceptable to Agent as if any such Permitted Acquisition or any other Investment or adjustment occurred on the first day of such Reference Period.

Notwithstanding anything to the contrary, it is agreed that for any period that includes the fiscal quarters ended on or about October 31, 2017, January 31, 2018, April 30, 2018 and July 31, 2018, (i) EBITDA for the fiscal quarter ended on or about October 31, 2017 shall be deemed to be $23,000,000, (ii) EBITDA for the fiscal quarter ended on or about January 31, 2018 shall be deemed to be $17,500,000, (iii) EBITDA for the fiscal quarter ended on or about April 30, 2018 shall be deemed to be $20,900,000, and (iv) EBITDA for the fiscal quarter ended on or about July 31, 2018 shall be deemed to be $21,700,000, in each case, as adjusted on a Pro Forma Basis, as applicable.

"Eco-Pan US" has the meaning assigned in the Preamble hereto.

"EEA Financial Institution" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

"EEA Member Country" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"EEA Resolution Authority" means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"Effective Yield" means, as to any Indebtedness, the effective yield applicable thereto calculated by the Term Agent in consultation with the Borrowers in a manner consistent with generally accepted financial practices, taking into account (a) interest rate margins, (b) interest rate floors (subject to the proviso set forth below), (c) any amendment to the relevant interest rate margins and interest rate floors prior to the applicable date of determination and (d) original issue discount and upfront or similar fees (based on an assumed four-year average life to maturity or lesser remaining average life to maturity), but excluding (i) any arrangement, commitment, structuring, underwriting and/or amendment fees (regardless of whether any such fees are paid to or shared in whole or in part with any lender) and (ii) any other fee that is not payable to all relevant lenders generally; provided, however, that (A) to the extent that the Eurodollar Rate or Alternate Base Rate (each such term as defined in the Term Loan Facility Agreement) (without giving effect to any floor specified in the definition thereof) is less than any floor applicable to the loans in respect of which the Effective Yield is being calculated on the date on which the Effective Yield is determined, the amount of the resulting difference will be deemed added to the interest rate margin applicable to the relevant Indebtedness for purposes of calculating the Effective Yield and (B) to the extent that the Eurodollar Rate (as defined in the Term Loan Facility Agreement) (for a period of three months) or Alternate Base Rate (as defined in the Term Loan Facility Agreement) (without giving effect to any floor specified in the definition thereof) is greater than any applicable floor on the date on which the Effective Yield is determined, the floor will be disregarded in calculating the Effective Yield.

"Eligible Accounts" means those Accounts created by a Borrower in the ordinary course of its business, that arise out of such Borrower's sale of goods or rendition of services, that comply with each of the representations and warranties respecting Eligible Accounts made in the Loan Documents, and that are not excluded as ineligible by virtue of one or more of the excluding criteria set forth below; provided, that such criteria may be revised from time to time by Agent in Agent's Permitted Discretion to address the results of any information with respect to the Borrowers' business or assets of which Agent becomes aware after the Closing Date, including any field examination performed by (or on behalf of) Agent from time to time after the Closing Date. In determining the amount to be included, Eligible Accounts shall be calculated net of customer deposits, unapplied cash, taxes, finance charges, service charges, discounts, credits, allowances, and rebates. Eligible Accounts shall not include the following:

(a) Accounts that the Account Debtor has failed to pay within 90 days of original invoice date,

(b) Accounts owed by an Account Debtor (or its Affiliates) where 50% or more of all Accounts owed by that Account Debtor (or its Affiliates) are deemed ineligible under clause (a) above,

(c) Accounts with respect to which the Account Debtor is an Affiliate of any Borrower or an employee or agent of any Borrower or any Affiliate of any Borrower,

(d) Accounts arising in a transaction wherein goods are placed on consignment or are sold pursuant to a guaranteed sale, a sale or return, a sale on approval, a bill and hold, or any other terms by reason of which the payment by the Account Debtor may be conditional,

(e) Accounts that are not payable in Dollars; provided that UK Eligible Accounts may also be payable in GBP,

(f) Accounts with respect to which the Account Debtor either (i) does not maintain its chief executive office in the United States (in the case of US Eligible Accounts) or the United Kingdom (in the case of UK Eligible Accounts), or (ii) is not organized under the laws of the United States or any state thereof States (in the case of US Eligible Accounts) or the United Kingdom (in the case of UK Eligible Accounts), or (iii) is the government of any foreign country or sovereign state, or of any state, province, municipality, or other political subdivision thereof, or of any department, agency, public corporation, or other instrumentality thereof, unless (A) the Account is supported by an irrevocable letter of credit reasonably satisfactory to Agent (as to form, substance, and issuer or domestic confirming bank) that has been delivered to Agent and is directly drawable by Agent, or (B) the Account is covered by credit insurance in form, substance, and amount, and by an insurer, reasonably satisfactory to Agent,

(g) Accounts with respect to which the Account Debtor is either (i) the United States or any department, agency, or instrumentality of the United States (exclusive, however, of Accounts with respect to which Borrowers have complied, to the reasonable satisfaction of Agent, with the Assignment of Claims Act, 31 USC §3727), or (ii) any state of the United States,

(h) Accounts with respect to which the Account Debtor is a creditor of a Borrower, has or has asserted a right of recoupment or setoff, or has disputed its obligation to pay all or any portion of the Account, to the extent of such claim, right of recoupment or setoff, or dispute,

(i) Accounts with respect to an Account Debtor whose total obligations owing to Borrowers exceed 10% (such percentage, as applied to a particular Account Debtor, being subject to reduction by Agent in its Permitted Discretion if the creditworthiness of such Account Debtor deteriorates) of all Eligible Accounts, to the extent of the obligations owing by such Account Debtor in excess of such percentage; provided, that, in each case, the amount of Eligible Accounts that are excluded because they exceed the foregoing percentage shall be determined by Agent based on all of the otherwise Eligible Accounts prior to giving effect to any eliminations based upon the foregoing concentration limit,

(j) Accounts with respect to which the Account Debtor is subject to an Insolvency Proceeding, is not Solvent, has gone out of business, or as to which any Borrower has received notice of an imminent Insolvency Proceeding or a material impairment of the financial condition of such Account Debtor,

(k) Accounts, the collection of which, Agent, in its Permitted Discretion, believes to be doubtful, including by reason of the Account Debtor's financial condition,

(l) Accounts that are not subject to a valid and perfected first priority Agent's Lien,

(m) Accounts with respect to which (i) the goods giving rise to such Account have not been shipped and billed to the Account Debtor, or (ii) the services giving rise to such Account have not been performed and billed to the Account Debtor,

(n) Accounts with respect to which the Account Debtor is a Sanctioned Person or Sanctioned Entity,

(o) Accounts that represent the right to receive progress payments or other advance billings that are due prior to the completion of performance by the applicable Borrower of the subject contract for goods or services,

(p) Accounts owned by a target acquired in connection with a Permitted Acquisition, until the completion of a field examination with respect to such target, in each case, reasonably satisfactory to Agent (which field examination may be conducted prior to the closing of such Permitted Acquisition), and

(q) Accounts which are subject to any deduction under the CIS Regulations (to the extent of such deduction).

"Eligible Inventory" means Inventory of a UK Borrower, that complies with each of the representations and warranties respecting Eligible Inventory made in the Loan Documents, and that is not excluded as ineligible by virtue of one or more of the excluding criteria set forth below; provided, that such criteria may be revised from time to time by Agent in Agent's Permitted Discretion to address the results of any field examination or appraisal performed by Agent from time to time after the Closing Date. In determining the amount to be so included, Inventory shall be valued at the lower of cost or market on a basis consistent with the UK Borrowers' historical accounting practices. An item of Inventory shall not be included in Eligible Inventory if

(a) it is obsolete, slow-moving, not in good condition or not currently usable or saleable,

(b) it is held at third party premises without acceptable access arrangements for Agent,

(c) it constitutes materials over which UK Security Agent does not have a valid first ranking Lien under the UK Security Documents,

(d) constitutes packaging or shipping materials,

(e) it constitutes returned, damaged or defective materials,

(f) it is held by a UK Borrower as consignee for a third party;

(g) it is not the property of the relevant UK Borrower by virtue of retention of title or Romalpa provisions in favour of any person,

(h) it is scrap,

(i) it is in transit outside property which is owned and controlled by any UK Borrower except in cases where they are (i) in transit between such properties and the aggregate value of such Inventory does not at any time exceed the sum of $10,000, or

(j) it is unsuitable for forming the basis of a lending decision as a result of any legal, regulatory or similar consideration.

"Eligible Rolling Stock Collateral" means the UK Equipment listed in the Initial Eligible Rolling Stock Schedule and any additional mobile and static pumps or other classes of assets with the consent of Agent (in the exercise of its Permitted Discretion) acquired by a UK Borrower for the purpose of hire to customers save for any such UK Equipment which (in the opinion of Agent (acting reasonably) and after consultation with the UK Administrative Borrower):

(a) is work-in-progress,

(b) is not the property of a UK Borrower or in respect of which the purchase price has not been paid by that UK Borrower in full,

(c) is obsolete, damaged, defective or not currently usable, except as necessitated for repair or maintenance in the ordinary course of operations.

(d) is located outside of the United Kingdom,

(e) is not subject to a Lien in favor of UK Security Agent under the UK Security Documents, or

(f) is unsuitable for forming the basis of a lending decision as a result of any regulatory or similar consideration relating to its use.

"Eligible Transferee" means (a) any Lender (other than a Defaulting Lender), any Affiliate of any Lender and any Related Fund of any Lender; and (b) (i) a commercial bank organized under the laws of the United States or any state thereof, and having total assets in excess of $1,000,000,000; (ii) a savings and loan association or savings bank organized under the laws of the United States or any state thereof, and having total assets in excess of $1,000,000,000; (iii) a commercial bank organized under the laws of any other country or a political subdivision thereof; provided that (A) (x) such bank is acting through a branch or agency located in the United States or (y) such bank is organized under the laws of a country that is a member of the Organization for Economic Cooperation and Development or a political subdivision of such country, and (B) such bank has total assets in excess of $1,000,000,000; (d) any other entity (other than a natural person) that is an "accredited investor" (as defined in Regulation D under the Securities Act) that extends credit or buys loans as one of its businesses including insurance companies, investment or mutual funds and lease financing companies, and having total assets in excess of $1,000,000,000; and (f) during the continuation of an Event of Default, any other Person approved by Agent; provided that no Sponsor Affiliated Entity shall qualify as an Eligible Transferee.

"Environmental Claim" means any investigation, notice, notice of violation, claim, action, suit, proceeding, demand, abatement order or other order or directive (conditional or otherwise), by any Governmental Authority or any other Person, arising (a) pursuant to or in connection with any actual or alleged violation of any Environmental Law or actual or alleged Environmental Liability; (b) in connection with any Hazardous Material or any actual or alleged Hazardous Materials Activity; or (c) 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 applicable Requirements of Law and Governmental Authorizations relating to (a) environmental matters, including those relating to pollution or protection of the environment or to any Hazardous Materials Activity; or (b) the generation, use, storage, transportation or disposal of or exposure to hazardous or toxic wastes or materials.

"Environmental Liability" means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), directly or indirectly resulting from, based upon or relating to (a) any Environmental Law, (b) any Hazardous Material Activities, (c) exposure to any Hazardous Materials, or (d) any contract pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"Equipment" means equipment (as that term is defined in the Code).

"Equity Contribution" has the meaning specified therefor in the Recitals to the Agreement.

"Equity Interests" means, with respect to a Person, all of the shares, options, warrants, interests, participations, or other equivalents (regardless of how designated) of or in such Person, whether voting or nonvoting, including capital stock (or other ownership or profit interests or units), preferred stock, or any other "equity security" (as such term is defined in Rule 3a11-1 of the General Rules and Regulations promulgated by the SEC under the Exchange Act).

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

"ERISA Affiliate " means, as applied to any Person, (a) any corporation which is a member of a controlled group of corporations within the meaning of Section 414(b) of the IRC of which that Person is a member; (b) 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 IRC of which that Person is a member; and (c) any member of an affiliated service group within the meaning of Section 414(m) or (o) of the IRC of which that Person, any corporation described in clause (a) above or any trade or business described in clause (b) above is a member.

"ERISA Event" means (a) a "reportable event" within the meaning of Section 4043 of ERISA and the regulations issued thereunder with respect to any Pension Plan (excluding those for which the 30-day notice period has been waived); (b) the failure to meet the minimum funding standard of Sections 412 or 430 of the IRC or Sections 302 or 303 of ERISA with respect to any Pension Plan (whether or not waived in accordance with Section 412(c) of the IRC); (c) the occurrence of a non-exempt prohibited transaction within the meaning of Section 4975 of the IRC or Section 406 of ERISA with respect to which a Borrower or any of its Restricted Subsidiaries is a "disqualified person" (within the meaning of Section 4975 of the IRC) or a "party in interest" (within the meaning of Section 3(14) of ERISA); (d) the provision by the administrator of any Pension Plan pursuant to Section 4041(a)(2) or Section 302 of ERISA of a notice of intent to terminate such plan in a distress termination described in Section 4041(c) of ERISA; (e) the withdrawal by any Borrower or any of its Restricted 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 any Borrower or any of its Restricted Subsidiaries or any of their respective ERISA Affiliates pursuant to Section 4063 or 4064 of ERISA; (f) the institution by the PBGC of proceedings to terminate any Pension Plan or to appoint a trustee to administer any Pension Plan under Section 4042 of ERISA; (g) the imposition of liability on any Borrower or any of its Restricted 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; (h) a complete or partial withdrawal (within the meaning of Sections 4203 and 4205 of ERISA) of any Borrower or any of its Restricted Subsidiaries or any of their respective ERISA Affiliates from any Multiemployer Plan if there is any potential liability therefor under Title IV of ERISA, or the receipt by any Borrower or any of its Restricted Subsidiaries or any of their respective ERISA Affiliates of notice from any Multiemployer Plan that it is "insolvent" (within the meaning of Section 4245 of ERISA) or in "endangered" or "critical" status (within the meaning of Section 432 of the IRC or Section 305 of ERISA), or that it intends to terminate or has terminated under Section 4041A or 4042 of ERISA; (i) the incurrence of liability or the imposition of a Lien pursuant to Section 436 or 430(k) of the IRC or pursuant to ERISA with respect to any Pension Plan; (j) any Foreign Benefit Event; or (k) any other event or condition with respect to a Pension Plan or Multiemployer Plan that could result in liability of any Borrower or any of its Restricted Subsidiaries.

"EU Bail-In Legislation Schedule" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

"European Member State" means any member state of the European Union.

"European Union" means the European Union, as formed by the Treaty on European Union on November 1, 1993 (the Maastricht Treaty).

"Event of Default" has the meaning specified therefor in Section 8.1 of the Agreement.

"Excess Availability" means, as of any date of determination, an amount equal to (a) the Line Cap, minus (b) the then outstanding Revolver Usage.

"Exchange Act" means the Securities Exchange Act of 1934, as in effect from time to time.

"Excluded Asset" has the meaning specified therefor in the US Guaranty and Security Agreement.

"Excluded Subsidiary" means any Excluded UK Guarantor Subsidiary or any Excluded US Guarantor Subsidiary, as the context requires.

"Excluded Swap Obligation" means, with respect to any Loan Party, any Swap Obligation if, and to the extent that, all or a portion of the guaranty of such Loan Party of (including by virtue of the joint and several liability provisions of Section 2.15), or the grant by such Loan Party of a security interest to secure, such Swap Obligation (or any guaranty thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Loan Party's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act and the regulations thereunder at the time the guaranty of such Loan Party or the grant of such security interest becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such guaranty or security interest is or becomes illegal.

"Excluded Taxes" means (i) any tax imposed on the net income or net profits of any Lender or any Participant (including any franchise taxes and branch profits taxes), in each case imposed by the jurisdiction (or by any political subdivision or taxing authority thereof) in which such Lender or such Participant is organized or the jurisdiction (or by any political subdivision or taxing authority thereof) in which such Lender's or such Participant's principal office is located in or as a result of a present or former connection between such Lender or such Participant and the jurisdiction or taxing authority imposing the tax (other than any such connection arising solely from such Lender or such Participant having executed, delivered or performed its obligations or received payment under, or enforced its rights or remedies under this Agreement or any other Loan Document), (ii) withholding taxes that would not have been imposed but for a Lender's or a Participant's failure to comply with the requirements of Section 16.2 of this Agreement, (iii) any United States federal withholding taxes that would be imposed on amounts payable to a Foreign Lender based upon the applicable withholding rate in effect at the time such Foreign Lender becomes a party to this Agreement (or designates a new lending office, other than a designation made at the request of a Loan Party), except that Excluded Taxes shall not include (A) any amount that such Foreign Lender (or its assignor, if any) was previously entitled to receive pursuant to Section 16.1 of this Agreement, if any, with respect to such withholding tax at the time such Foreign Lender becomes a party to this Agreement (or designates a new lending office), and (B) additional United States federal withholding taxes that may be imposed after the time such Foreign Lender becomes a party to this Agreement (or designates a new lending office), as a result of a change in law, rule, regulation, treaty, order or other decision or other Change in Law with respect to any of the foregoing by any Governmental Authority, and (iv) any United States federal withholding taxes imposed under FATCA.

"Excluded UK Guarantor Subsidiary" means (a) any Immaterial Subsidiary, (b) any Subsidiary of Holdings (i) that is prohibited from providing a guarantee of the UK Obligations by (A) any law or regulation or (B) any contractual obligation that, in the case of this clause (B), exists on the Closing Date or at the time such Subsidiary becomes a Subsidiary of Holdings (and was not entered into in contemplation thereof), (ii) that would require a governmental (including regulatory) consent, approval, license or authorization in order to provide a guarantee of the UK Obligations (unless such consent, approval, license or authorization has been obtained), or (iii) where the provision of a guarantee of the UK Obligations would result in material adverse tax consequences as reasonably determined by the UK Borrowers (in consultation with Agent), (c) any not-for-profit Subsidiaries, (d) any captive insurance Subsidiaries, and (e) any Subsidiary of Holdings to the extent that the burden or cost of guaranteeing the UK Obligations or providing the relevant security outweighs the benefit afforded thereby and it is unnecessary for the perfection of any Collateral, in each case as reasonably agreed by the UK Borrowers and Agent.

"Excluded US Guarantor Subsidiary" means (a) any Subsidiary of Holdings that is (i) a Foreign Subsidiary, (ii) a Domestic Subsidiary Holdco, (iii) a CFC, (iv) a Subsidiary of a Foreign Subsidiary, or (v) not a wholly-owned Restricted Subsidiary, (b) any Immaterial Subsidiary, (c) any not-for-profit Subsidiaries, (d) any captive insurance Subsidiaries, (e) any Subsidiary of Holdings to the extent that the burden or cost of guaranteeing the Obligations or providing the relevant security outweighs the benefit afforded thereby and it is unnecessary for the perfection of any Collateral, in each case as reasonably agreed by the US Borrowers and Agent, and (f) any Subsidiary of Holdings (i) that is prohibited from providing a guarantee of the US Obligations by (A) any law or regulation or (B) any contractual obligation that, in the case of this clause (B), exists on the Closing Date or at the time such Subsidiary becomes a Subsidiary of Holdings (and was not entered into in contemplation thereof), (ii) that would require a governmental (including regulatory) consent, approval, license or authorization in order to provide a guarantee of the UK Obligations (unless such consent, approval, license or authorization has been obtained), or (iii) where the provisions of a guarantee of the US Obligations would result in material adverse tax consequences as reasonably determined by the US Borrowers (in consultation with Agent); provided, that notwithstanding the foregoing in no event shall "Excluded US Guarantor Subsidiaries" include (x) any US Borrower or (y) any Loan Party as such term is defined in the Term Loan Facility Agreement.

"Existing Credit Agreement" means that certain Amended and Restated Credit Agreement, dated August 18, 2014, by and among Wells Fargo Bank, National Association, the Lenders (as defined therein), CP Holdings LLC, Brundage Pumping, as borrower, and Eco-Pan US, as borrower, as amended and in effect immediately prior to giving effect to the transactions contemplated hereby on the Closing Date.

"Existing Letters of Credit" means those letters of credit described on Schedule E-1 to the Agreement.

"Expected Cost Savings" has the meaning specified in the definition of "Consolidated Adjusted EBITDA".

"Extraordinary Advances" has the meaning specified therefor in Section 2.3(d)(iii) of this Agreement.

"FATCA" means Sections 1471 through 1474 of the IRC, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), and (a) any current or future regulations or official interpretations thereof, (b) any agreements entered into pursuant to Section 1471(b)(1) of the IRC, and (c) any intergovernmental agreement entered into by the United States (or any fiscal or regulatory legislation, rules, or practices adopted pursuant to any such intergovernmental agreement entered into in connection therewith).

"FCPA" means the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder.

"Fee Letter" means that certain fee letter, dated as September 7, 2018, among Borrowers and Agent, in form and substance reasonably satisfactory to Agent.

"Federal Funds Rate" means, for any period, a fluctuating interest rate per annum equal to, for each day during such period, the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by Agent from three Federal funds brokers of recognized standing selected by it (and, if any such rate is below zero, then the rate determined pursuant to this definition shall be deemed to be zero).

"Financial Plan" has the meaning specified therefor in Section 5.1(h) of this Agreement.

"Financial Support Direction" means a financial support direction issued by the Pensions Regulator under section 43 of the Pensions Act 2004 (UK).

"First Lien Leverage Ratio" means the ratio, as of any date of determination, of (a) Consolidated First Lien Debt (as defined in the Term Loan Facility Agreement as in effect on the Closing Date) as of such date to (b) Consolidated Adjusted EBITDA for the Test Period then most recently ended, in each case of the US Borrowers and their Restricted Subsidiaries on a consolidated basis.

"Fiscal Quarter" means a fiscal quarter of any Fiscal Year.

"Fiscal Year" means the fiscal year of Holdings for financial reporting purposes hereunder ending on or about October 31 of each calendar year.

"Fixed Charges" means, with respect to any fiscal period and with respect to Borrowers determined on a consolidated basis in accordance with GAAP, the sum, without duplication, of (a) Interest Expense accrued (other than interest paid-in-kind, amortization of financing fees, and other non-cash Interest Expense) during such period, (b) scheduled principal payments in respect of Indebtedness that are required to be paid during such period, (c) all federal, state, and local income taxes paid in cash during such period, (d) all management, consulting, monitoring, and advisory fees paid in cash to Sponsor or its Affiliates during such period, (e) Restricted Payments paid pursuant to Section 6.4(a)(i)(B) during such period (without duplication of any items under clause (c) of this definition) and (f) all Restricted Payments pursuant to Sections 6.4(a)(ii)(A), 6.4(a)(iii), 6.4(a)(viii) and 6.4(a)(ix) in excess of $25,000,000 in the aggregate paid (whether in cash or other property, other than common Equity Interests) during such period. Notwithstanding anything to the contrary, it is agreed, that for the purpose of calculating the Fixed Charge Coverage Ratio for any period that includes the fiscal quarters ended on or about October 31, 2017, January 31, 2018, April 30, 2018 and July 31, 2018, (i) Fixed Charges for the fiscal quarter ended on or about October 31, 2017 shall be deemed to be $11,600,000, (ii) Fixed Charges for the fiscal quarter ended on or about January 31, 2018 shall be deemed to be $10,200,000, (iii) Fixed Charges for the fiscal quarter ended on or about April 30, 2018 shall be deemed to be $11,600,000, and (iv) Fixed Charges for the fiscal quarter ended on or about July 31, 2018 shall be deemed to be $11,500,000, in each case, as adjusted on a Pro Forma Basis, as applicable.

"Fixed Charge Coverage Ratio" means, with respect to any fiscal period and with respect to Borrowers determined on a consolidated basis in accordance with GAAP, the ratio of (a) EBITDA for such period *minus* Capital Expenditures made (to the extent not already incurred in a prior period) or incurred during such period (except to the extent financed by proceeds of any Indebtedness permitted under Section 6.1 (other than Revolving Loans) or proceeds of the issuance, or contribution made in respect, of Equity Interests) *plus* the amount of Net Proceeds received during such period from the sale of any machinery or Equipment owned by a Loan Party, to (b) Fixed Charges for such period.

"Foreclosed Borrower" has the meaning specified therefor in Section 2.14(h) of this Agreement.

"Foreign Benefit Event" means, with respect to any Foreign Pension Plan, (a) the existence of unfunded liabilities in excess of the amount permitted under any applicable law, or in excess of the amount that would be permitted absent a waiver from a Governmental Authority, (b) the failure to make the required contributions or payments, under any applicable law, on or before the due date for such contributions or payments, (c) the receipt of a notice by a Governmental Authority relating to the intention to terminate any such Foreign Pension Plan or to appoint a trustee or similar official to administer any such Foreign Pension Plan, or alleging the insolvency of any such Foreign Pension Plan, (d) the incurrence of any liability by Holdings or any of its Restricted Subsidiaries under applicable law on account of the complete or partial termination of such Foreign Pension Plan or the complete or partial withdrawal of any participating employer therein, or (e) the occurrence of any transaction that is prohibited under any applicable law and that could reasonably be expected to result in the incurrence of any liability Holdings or any of its Restricted Subsidiaries, or the imposition on the Borrower or any of its Restricted Subsidiaries of any fine, excise tax or penalty resulting from any noncompliance with any applicable law.

"Foreign Lender" means any Lender or Participant that is not a United States person within the meaning of IRC section 7701(a)(30).

"Foreign Pension Plan" means any Plan that under applicable law other than the laws of the United States or any political subdivision thereof, is required to be funded through a trust or other funding vehicle other than a trust or funding vehicle maintained exclusively by a Governmental Authority.

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

"Fund Affiliates" shall mean, with respect to any Person, any other Person which (a) directly or indirectly, is in Control of, is Controlled by, or is under common Control with, such Person and (b) is organized by the former such Person (or by a Person Controlling both of such Persons) primarily for the purpose of making equity or debt investments in one or more companies, but, in each case, not including any of such Person's portfolio companies.

"Funding Date" means the date on which a Borrowing occurs.

"Funding Losses" has the meaning specified therefor in Section 2.12(b)(ii) of this Agreement.

"GAAP" means generally accepted accounting principles as in effect from time to time in the United States, consistently applied.

"GBP" or "£" means the lawful currency of the United Kingdom, as in effect from time to time.

"Governing Documents" means (a) with respect to any corporation, its certificate or articles of incorporation or organization and its by-laws, (b) with respect to any limited partnership, its certificate of limited partnership and its partnership agreement, (c) with respect to any general partnership, its partnership agreement, (d) with respect to any limited liability company, its articles of organization or certificate of formation or incorporation, and its operating agreement and/or memorandum and articles of association and (e) with respect to any other form of entity, such other organizational documents required by local Requirements of Law or customary under such jurisdiction to document the formation and governance principles of such type of entity. In the event that any term or condition of this Agreement or any other Loan Document requires any Organizational Document to be certified by a secretary of state or similar governmental official, the reference to any such "Governing Document" shall only be to a document of a type customarily certified by such governmental official.

"Governmental Authority" means the government of any nation or any political subdivision thereof, whether at the national, state, territorial, provincial, municipal or any other level, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of, or pertaining to, government (including any supra-national bodies such as the European Union or the European Central Bank).

"Growth Amount" means the portion of the Available Amount included in the calculation thereof pursuant to clause (a)(ii) of the definition thereof.

"Guarantee" of or by any Person (the "guarantor") means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other monetary obligation of any other Person (the "primary obligor") in any manner and including any obligation of the guarantor (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other monetary obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other monetary obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other monetary obligation, (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or monetary obligation, (e) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part) or (f) secured by any Lien on any assets of such guarantor securing any Indebtedness or other monetary obligation of any other Person, whether or not such Indebtedness or other monetary obligation is assumed by such guarantor (or any right, contingent or otherwise, of any holder of such Indebtedness or other monetary obligation to obtain any such Lien); provided that the term "Guarantee" shall not include endorsements for collection or deposit in the ordinary course of business, or customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition, Disposition or other transaction permitted under this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith.

"Guarantors" means US Guarantors and UK Guarantors, as the context requires.

"Hazardous Materials" means any chemical, material, substance or waste, or any constituent thereof, (i) that is defined, listed or regulated as hazardous, toxic, a pollutant or a contaminant, or words or similar import under Environmental Law or (ii) exposure to which is prohibited, limited or regulated by any Environmental Law or any Governmental Authority.

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

"Hedge Agreement" means a "swap agreement" as that term is defined in Section 101(53B)(A) of the Bankruptcy Code.

"Hedge Obligations" means UK Hedge Obligations or US Hedge Obligations, as the context requires.

"Hedge Provider" means Wells Fargo or any of its Affiliates.

"HMRC DT Treaty Passport scheme" means the Board of H.M. Revenue and Customs Double Taxation Treaty Passport scheme.

"Holdings" has the meaning assigned in the Preamble hereto.

"Holdings Materials" has the meaning specified therefor in Section 5.1(m) of this Agreement.

"Immaterial Subsidiary" means any Subsidiary of Holdings that, as of the most recently-ended fiscal quarter of Holdings for which financial statements were, or were required to be, delivered hereunder, does not have, (a) assets in excess of 2.5% of Consolidated Total Assets of Borrowers and their respective Restricted Subsidiaries; or (b) revenues for such fiscal quarter in excess of 2.5% of the combined revenues of Borrowers and their respective Restricted Subsidiaries for such period; provided that (x) all Immaterial Subsidiaries, taken as a whole, shall not have (1) assets with a value in excess of 5.0% of Consolidated Total Assets of Borrowers and their respective Restricted Subsidiaries or (2) revenues for such fiscal quarter in excess of 5.0% of the combined revenues of Borrowers and their respective Restricted Subsidiaries for such period; (y) in no event shall (1) a Borrower be considered an Immaterial Subsidiary or (2) an Immaterial Subsidiary hold any assets that are material to the business of Holdings and its Restricted Subsidiaries.

"Immediate Family Member" means, with respect to any individual, such individual's child, stepchild, grandchild or more remote descendant, parent, stepparent, grandparent, spouse, former spouse, domestic partner, former domestic partner, sibling, mother-in-law, father-in-law, son-in-law and daughter-in-law (including adoptive relationships), any trust, partnership or other bona fide estate-planning vehicle the only beneficiaries of which are any of the foregoing individuals, such individual's estate (or an executor or administrator acting on its behalf), heirs or legatees or any private foundation or fund that is controlled by any of the foregoing individuals or any donor-advised fund of which any such individual is the donor.

"Increase Date" has the meaning as assigned in Section 2.16(a).

"Incremental Agreement" has the meaning as assigned in Section 2.16(e)(ii).

"Incremental Commitment Date" has the meaning as assigned in Section 2.16(c).

"Incremental Equivalent Debt" has the meaning set out in the Term Loan Facility Agreement (as in effect on the Closing Date).

"Incremental Revolving Commitments" has the meaning as assigned in Section 2.16(a).

"Incremental Revolving Lender" has the meaning as assigned in Section 2.16(c).

"Indebtedness" as applied to any Person means, without duplication, (a) all indebtedness for borrowed money of such Person; (b) that portion of obligations with respect to Capital Leases to the extent recorded as a liability on a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP; (c) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments to the extent the same would appear as a liability on a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP; (d) any obligation owed for all or any part of the deferred purchase price of property or services which purchase price is (A) due more than six months from the date of incurrence of the obligation in respect thereof or (B) evidenced by a note or similar written instrument (excluding (i) any earn out obligation or purchase price adjustment until such obligation (A) becomes a liability on the statement of financial position or balance sheet (excluding the footnotes thereto) in accordance with GAAP and (B) has not been paid within 60 days after becoming due and payable, (ii) accrued expenses and trade accounts payable in the ordinary course of business (including on an inter-company basis) and (iii) liabilities associated with customer prepayments and deposits); (e) all Indebtedness of others secured by any Lien on any asset owned by such Person regardless of whether the Indebtedness secured thereby have been assumed by such Person or is non-recourse to the credit of such Person; (f) the face amount of any letter of credit issued for the account of such Person or as to which such Person is otherwise liable for reimbursement of drawings (except to the extent the relevant reimbursement obligations relate to trade payables and are satisfied within 3 days following the incurrence thereof); (g) the Guarantee by such Person of the Indebtedness of another; (h) all obligations of such Person in respect of any Disqualified Capital Stock and (i) all net obligations of such Person in respect of any Derivative Transaction, including any Hedge Agreement, whether or not entered into for hedging or speculative purposes; provided that (i) in no event shall obligations under any Derivative Transaction be deemed "Indebtedness" for any calculation of the First Lien Leverage Ratio, Total Leverage Ratio, the Secured Leverage Ratio or any other financial ratio under this Agreement and (ii) the amount of Indebtedness of any Person for purposes of clause (e) shall be deemed to be equal to the lesser of (A) the aggregate unpaid amount of such Indebtedness and (B) the fair market value of the property encumbered thereby as determined by such Person in good faith. For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any third person (including any partnership in which such Person is a general partner and any unincorporated joint venture in which such Person is a joint venturer) to the extent such Person would be liable therefor under applicable Requirements of Law or any agreement or instrument by virtue of such Person's ownership interest in such Person, except to the extent the terms of such Indebtedness provided that such Person is not liable therefor; provided that notwithstanding anything herein to the contrary, the term "Indebtedness" shall not include, and shall be calculated without giving effect to, the effects of Accounting Standards Codification Topic 815 and related interpretations to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose hereunder as a result of accounting for any embedded derivatives created by the terms of such Indebtedness.

"Indemnified Liabilities" has the meaning specified therefor in Section 10.3 of this Agreement.

"Indemnified Person" has the meaning specified therefor in Section 10.3 of this Agreement.

"Indemnified Taxes" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in (a), Other Taxes.

"Information" has the meaning specified therefor in Section 4.11(a) of this Agreement.

"Information Memorandum" means the Confidential Information Memorandum posted to SyndTrak on October 22, 2018 relating to Holdings, Intermediate Holdings, CP Holdings LLC, the Borrowers and their Restricted Subsidiaries and the Transactions.

"Initial Eligible Rolling Stock Schedule" means the schedule of Eligible Rolling Stock Collateral, in a form and substance acceptable to Agent, delivered by the UK Administrative Borrower as a closing condition under the Agreement.

"Insolvency Proceeding" means any proceeding commenced by or against any Person under any provision of the Bankruptcy Code or under any other Debtor Relief Law or other national, state, provincial or federal bankruptcy or insolvency law or equivalent laws of any other jurisdiction, assignments for the benefit of creditors, formal or informal moratoria, compositions, extensions generally with creditors, or proceedings seeking reorganization, arrangement, or other similar relief, including, with respect to any UK Person, any corporate action, legal proceedings, or other procedure or formal step taken in relation to: (i) a suspension of payments, a moratorium of its indebtedness generally (or any class thereof), its winding-up, dissolution, administration, or reorganization (by way of voluntary arrangement, scheme of arrangement or otherwise), other than pursuant to a consolidation, amalgamation or merger permitted under the terms of this Agreement, (ii) a composition, compromise, assignment or similar arrangement for the financial benefit of its creditors, or (iii) the appointment of a liquidator, a receiver, an administrator, compulsory manager or other similar officer in respect of it or any of its assets.

"Institutional Investor" means an institutional investor that is engaged in making financial investments and is identified by written notice from the US Administrative Borrower to the Agent delivered no later than fifteen (15) calendar days after the Closing Date.

"Intercompany Subordination Agreement" means that certain Intercompany Subordination Agreement, dated as of the date hereof, by Holdings, each of its Subsidiaries, and Agent, the form and substance of which is reasonably satisfactory to Agent.

"Intercreditor Agreement" means that certain Intercreditor Agreement, dated as of the date hereof by and among Agent, Term Agent and the Loan Parties, as the same may be amended, restated, supplemented or modified from time to time in accordance with the terms hereof and thereof.

"Interest Expense" means, for any period, the aggregate of the interest expense of Holdings and its Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP.

"Interest Period" means, (i) with respect to each LIBOR Rate Loan to a US Borrower, a period commencing on the date of the making of such LIBOR Rate Loan (or the continuation of a LIBOR Rate Loan or the conversion of a Base Rate Loan to a LIBOR Rate Loan) and ending 1, 2, 3 or 6 months thereafter and (ii) with respect to each LIBOR Rate Loan to a UK Borrower, 1 month; provided, that (a) interest shall accrue at the applicable rate based upon the LIBOR Rate from and including the first day of each Interest Period to, but excluding, the day on which any Interest Period expires, (b) any Interest Period that would end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day, (c) with respect to an 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), the Interest Period shall end on the last Business Day of the calendar month that is 1, 2, or 3 months after the date on which the Interest Period began, as applicable, and (d) Borrowers may not elect an Interest Period which will end after the Maturity Date.

"Interim Eligible Rolling Stock Collateral" means Eligible Rolling Stock Collateral that was acquired after the most recent acceptable appraisal of Eligible Rolling Stock Collateral delivered to Agent and is not Appraised Eligible Rolling Stock Collateral. For the avoidance of doubt it is understood and agreed that upon such Interim Eligible Rolling Stock Collateral becoming subject to an appraisal thereof delivered to Agent in form and substance satisfactory to it, such Interim Eligible Rolling Stock Collateral shall cease to be Interim Eligible Rolling Stock Collateral and shall constitute Appraised Eligible Rolling Stock Collateral.

"Intermediate Holdings" has the meaning assigned in the Preamble hereto.

"Inventory" means inventory (as that term is defined in the Code).

"Investment" means (a) any purchase or other acquisition by Holdings or any of its Restricted Subsidiaries of any of the Securities of any other Person, (b) the acquisition by purchase or otherwise (other than any purchase or other acquisition of inventory, materials, supplies and/or equipment in the ordinary course of business) of all or a substantial portion of the business, property or fixed assets of any other Person or any division or line of business or other business unit of any other Person and (c) any loan, advance or capital contribution by any Borrower or any of its Restricted Subsidiaries to any other Person. Subject to Section 5.11, the amount of any Investment shall be the original cost of such Investment, plus the cost of any addition thereto that would otherwise constitute an Investment, without any adjustments for increases or decreases in value, or write-ups, write-downs or write-offs with respect thereto, but giving effect to any repayments of principal in the case of any Investment in the form of a loan and any return of capital or return on Investment in the case of any equity Investment (whether as a distribution, dividend, redemption or sale but not in excess of the amount of the relevant initial Investment).

"Investors" has the meaning specified therefor in the Recitals to this Agreement.

"IP Rights" has the meaning specified therefor in Section 4.5(c) of this Agreement.

"IRC" means the Internal Revenue Code of 1986, as in effect from time to time.

"ISP" means, with respect to any Letter of Credit, the International Standby Practices 1998 (International Chamber of Commerce Publication No. 590) and any version or revision thereof accepted by the Issuing Bank for use.

"Issuer Document" means, with respect to any Letter of Credit, a letter of credit application, a letter of credit agreement, or any other document, agreement or instrument entered into (or to be entered into) by a Borrower in favor of Issuing Bank and relating to such Letter of Credit.

"Issuing Bank" means a US Issuing Bank or a UK Issuing Bank.

"Joinder Agreement" means the Joinder Agreement substantially in the form of Exhibit B-2.

"Judgment Currency" has the meaning specified therefor in Section 17.12 of this Agreement.

"Junior Indebtedness" means any Indebtedness (other than Indebtedness (i) among the Borrowers and/or their Restricted Subsidiaries and (ii) under the Term Loan Facility Agreement) that is expressly subordinated in right of payment to the Obligations with an individual outstanding principal amount in excess of the Threshold Amount.

"Junior Lien Indebtedness" means any Indebtedness that is secured by a security interest on the Collateral (other than Indebtedness (i) among the Borrowers and/or their Restricted Subsidiaries and (ii) under the Term Loan Facility Agreement) that is expressly junior or subordinated to the Lien securing the Obligations with an individual outstanding principal amount in excess of the Threshold Amount.

"Latest Maturity Date" means, as of any date of determination, the latest maturity or expiration date applicable to any Loan (as defined in the Term Loan Facility Agreement) or commitment under the Term Loan Facility Agreement at such time, including the latest maturity or expiration date of any Term Loan or Term Commitment (each such term as defined in the Term Loan Facility Agreement).

"Latest Term Loan Maturity Date" means, as of any date of determination, the latest maturity or expiration date applicable to any term loan or term commitment under the Term Loan Facility Agreement at such time, including the latest maturity or expiration date of any Term Loan or any Additional Term Loan Commitment (each such term as defined in the Term Loan Facility Agreement).

"LCT Election" has the meaning specified therefor in Section 1.8 of this Agreement.

"LCT Test Date" has the meaning specified therefor in Section 1.8 of this Agreement.

"Lead Arranger" has the meaning assigned in the Preamble hereto.

"Lead Common Investor" means that certain equity investor in Holdings party to the Subscription Agreement, dated as of September 7, 2018, among such equity investor, Buyer and Holdings, which agreement has been provided by Buyer to the Agent on or prior to the date hereof.

"Legal Reservations" means (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors; (b) the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim; (c) similar principles, rights and defences under the laws of any jurisdiction where a UK Borrower has a place of business or assets and (d) any other matters which are set out as qualifications or reservations as to matters of law of general application in any legal opinion delivered to Agent in connection with this Agreement.

"Lender" has the meaning assigned in the Preamble hereto, shall include Issuing Bank and the Swing Lender, and shall also include any other Person made a party to the Agreement pursuant to the provisions of Section 13.1 of this Agreement and "Lenders" means each of the Lenders or any one or more of them.

"Lender Group" means each of the Lenders (including Issuing Bank and the Swing Lender) and Agent, or any one or more of them.

"Lender Group Expenses" means all (a) costs or expenses (including taxes and insurance premiums) required to be paid by Holdings or its Subsidiaries under any of the Loan Documents that are paid, advanced, or incurred by the Lender Group, (b) documented out-of-pocket fees or charges paid or incurred by Agent and/or UK Security Agent in connection with the Lender Group's transactions with Holdings and its Subsidiaries under any of the Loan Documents, including, photocopying, notarization, couriers and messengers, telecommunication, public record searches, filing fees, recording fees, publication, real estate surveys, real estate title policies and endorsements, and environmental audits, (c) Agent's customary fees and charges imposed or incurred in connection with any background checks or OFAC/PEP searches related to Holdings or its Subsidiaries, (d) Agent's customary fees and charges (as adjusted from time to time) with respect to the disbursement of funds (or the receipt of funds) to or for the account of any Borrower (whether by wire transfer or otherwise), together with any out-of-pocket costs and expenses incurred in connection therewith, (e) customary charges imposed or incurred by Agent resulting from the dishonor of checks payable by or to any Loan Party, (f) reasonable documented out-of-pocket costs and expenses paid or incurred by the Lender Group to correct any default or enforce any provision of the Loan Documents, or during the continuance of an Event of Default, in gaining possession of, maintaining, handling, preserving, storing, shipping, selling, preparing for sale, or advertising to sell the Collateral, or any portion thereof, irrespective of whether a sale is consummated, (g) field examination, appraisal, and valuation fees and expenses of Agent related to any field examinations, appraisals, or valuation to the extent of the fees and charges (and up to the amount of any limitation) provided in Section 2.10 of this Agreement, (h) Agent's, UK Security Agent's and Lenders' reasonable costs and expenses (including reasonable documented attorneys' fees and expenses) relative to third party claims or any other lawsuit or adverse proceeding paid or incurred, whether in enforcing or defending the Loan Documents or otherwise in connection with the transactions contemplated by the Loan Documents, Agent's Liens in and to the Collateral, or the Lender Group's relationship with Holdings or any of its Subsidiaries, (i) Agent's reasonable documented costs and expenses (including reasonable documented attorneys' fees and due diligence expenses) incurred in advising, structuring, drafting, reviewing, administering (including travel, meals, and lodging), syndicating (including reasonable costs and expenses relative to CUSIP, DXSyndicate™, SyndTrak or other communication costs incurred in connection with a syndication of the loan facilities), or amending, waiving, or modifying the Loan Documents, and (j) Agent's and each Lender's reasonable documented costs and expenses (including reasonable documented attorneys, accountants, consultants, and other advisors fees and expenses) incurred in terminating, enforcing (including attorneys, accountants, consultants, and other advisors fees and expenses incurred in connection with a "workout," a "restructuring," or an Insolvency Proceeding concerning Holdings or any of its Subsidiaries or in exercising rights or remedies under the Loan Documents), or defending the Loan Documents, irrespective of whether a lawsuit or other adverse proceeding is brought, or in taking any enforcement action or any Remedial Action with respect to the Collateral; provided, that notwithstanding anything to contrary contained herein, the attorneys' fees and disbursements referenced above shall be limited to the reasonable fees and disbursements of attorneys of one firm of counsel for all members of the Lender Group and one local counsel for all members of the Lender Group in each appropriate jurisdiction (and, to the extent required by the subject matter, one specialist counsel for each specialized are of law in each appropriate jurisdiction).

"Lender Group Representatives" has the meaning specified therefor in Section 17.9(a) of this Agreement.

"Lender-Related Person" means, with respect to any Lender, such Lender, together with such Lender's Affiliates, officers, directors, employees, attorneys, and agents.

"Letter of Credit" means a letter of credit (as that term is defined in the Code) issued by Issuing Bank.

"Letter of Credit Collateralization" means either (a) providing cash collateral (pursuant to documentation reasonably satisfactory (including that Agent or UK Security Agent has a first priority perfected Lien in such cash collateral) to Agent, including provisions that specify that the Letter of Credit Fees and all commissions, fees, charges and expenses provided for in Section 2.11(k) of this Agreement (including any fronting fees) will continue to accrue while the Letters of Credit are outstanding) to be held by Agent or UK Security Agent for the benefit of the Revolving Lenders with Letter of Credit Exposure in an amount equal to 103% of the then existing Letter of Credit Usage, (b) delivering to Agent documentation executed by all beneficiaries under the Letters of Credit, in form and substance reasonably satisfactory to Agent and Issuing Bank, terminating all of such beneficiaries' rights under the Letters of Credit, or (c) providing Agent with a standby letter of credit, in form and substance reasonably satisfactory to Agent, from a commercial bank acceptable to Agent (in its sole discretion) in an amount equal to 103% of the then existing Letter of Credit Usage (it being understood that the Letter of Credit Fee and all fronting fees set forth in the Agreement will continue to accrue while the Letters of Credit are outstanding and that any such fees that accrue must be an amount that can be drawn under any such standby letter of credit).

"Letter of Credit Disbursement" means a payment made by Issuing Bank pursuant to a Letter of Credit.

"Letter of Credit Exposure" means, as of any date of determination with respect to any Lender, such Lender's participation in the Letter of Credit Usage pursuant to Section 2.11(e) of this Agreement on such date.

"Letter of Credit Fee" has the meaning specified therefor in Section 2.6(b) of this Agreement.

"Letter of Credit Indemnified Costs" has the meaning specified therefor in Section 2.11(f) of this Agreement.

"Letter of Credit Related Person" has the meaning specified therefor in Section 2.11(f) of this Agreement.

"Letter-of-Credit Right" has the meaning set forth in Article 9 of the Code.

"Letter of Credit Sublimit" means $7,500,000.

"Letter of Credit Usage" means, as of any date of determination, the sum of (a) US Letter of Credit Usage as of such date *plus* (b) UK Letter of Credit Usage as of such date.

"LIBOR Deadline" has the meaning specified therefor in Section 2.12(b)(i) of this Agreement.

"LIBOR Notice" means a written notice in the form of Exhibit L-1 to the Agreement.

"LIBOR Option" has the meaning specified therefor in Section 2.12(a) of this Agreement.

"LIBOR Rate" means the rate per annum as published by ICE Benchmark Administration Limited (or any successor page or other commercially available source as Agent may designate from time to time) as of 11:00 a.m., London time, (i) in respect of Revolving Loans to the US Borrowers, two (2) Business Days prior to the commencement of the requested Interest Period, for a term, and in an amount, comparable to the Interest Period and the amount of the LIBOR Rate Loan requested (whether as an initial LIBOR Rate Loan or as a continuation of a LIBOR Rate Loan or as a conversion of a Base Rate Loan to a LIBOR Rate Loan) by US Borrowers or (ii) in respect of Revolving Loans to the UK Borrowers, the 30 day rate for the relevant currency on each day, and if such day is not a Business Day, on the immediately preceding Business Day, in each case in accordance with this Agreement (and, if any such published rate is below zero, then the "LIBOR Rate" shall be deemed to be zero). Each determination of the LIBOR Rate shall be made by Agent and shall be conclusive in the absence of manifest error.

"LIBOR Rate Loan" means each portion of a Revolving Loan that bears interest at a rate determined by reference to the LIBOR Rate.

"LIBOR Rate Margin" has the meaning set forth in the definition of Applicable Margin.

"Lien" means any mortgage, deed of trust, pledge, hypothecation, assignment, charge, deposit arrangement, encumbrance, easement, lien (statutory or other), security interest, or other security arrangement and any other preference, priority, or preferential arrangement of any kind or nature whatsoever, including any conditional sale contract or other title retention agreement, the interest of a lessor under a Capital Lease and any synthetic or other financing lease having substantially the same economic effect as any of the foregoing.

"Limitation Acts" means the Limitation Act 1980 and the Foreign Limitation Act 1984.

"Limited Condition Transaction" means any Permitted Acquisition or similar Investment whose consummation is not conditioned on the availability of, or on obtaining, third party financing, in each case which is designated as a Limited Condition Transaction by the Administrative Borrower in writing to Agent.

"Line Cap" means, as of any date of determination, the lesser of (1) the Maximum Revolver Amount, and (2) the Aggregate Borrowing Base as of such date of determination.

"Loan" shall mean any Revolving Loan, Swing Loan or Extraordinary Advance made (or to be made) hereunder.

"Loan Account" means the US Loan Account or the UK Loan Account, as the context requires.

"Loan Documents" means the Agreement, the Controlled Account Agreements, each Copyright Security Agreement, any Borrowing Base Certificate, the Fee Letter, the US Guaranty and Security Agreement, the UK Security Documents, the US Security Documents, the Intercompany Subordination Agreement, any Issuer Documents, the Letters of Credit, each Patent Security Agreement, each Trademark Security Agreement, the Intercreditor Agreement, the Rolling Stock Custodian Agreements, each Joinder Agreements, any note or notes executed by Borrowers in connection with the Agreement and payable to any member of the Lender Group, and any other instrument or agreement entered into, now or in the future, by Holdings or any of its Subsidiaries and any member of the Lender Group in connection with the Agreement.

"Loan Management Service" means Agent's proprietary automated loan management program currently known as "Loan Manager" and any successor service or product of Lender which performs similar services.

"Loan Party" means any US Loan Party or any UK Loan Party, as the context requires.

"Management Equityholders" means the officers, directors, managers, employees and members of management of the Target and its subsidiaries (i) who have entered into rollover agreements, dated as of September 7, 2018, with Holdings and Buyer, as applicable or (ii) who are identified by Holdings and Buyer as "Management Equityholders" pursuant to the applicable rollover documentation by written notice to the Agent delivered at least two (2) Business Days prior to the Closing Date.

"Margin Stock" has the meaning assigned to such term in Regulation U.

"Material Adverse Effect" means (a) on the Closing Date, a "Material Adverse Effect" (as defined in the Concrete Pumping Acquisition Agreement) and (b) at any time thereafter, a material adverse effect on (i) the business, financial condition or results of operations, in each case, of the Borrowers and their Restricted Subsidiaries (taken as a whole), (ii) the ability of the Borrowers and the Guarantors (taken as a whole) to perform their payment obligations under this Agreement and the other Loan Documents or (iii) the rights and remedies, taken as a whole, of Agent and the Lenders under this Agreement and the other Loan Documents.

"Material Debt Instrument" means any physical instrument evidencing any Indebtedness for borrowed money which is required to be pledged and delivered to Agent (or its bailee) pursuant to the US Guaranty and Security Agreement.

"Maturity Date" means December 6, 2023; provided, however, that, if such date is not a Business Day, the Maturity Date shall be the immediately preceding Business Day.

"Maximum Revolver Amount" means $60,000,000, as may be decreased by the amount of reductions in the Revolver Commitments made in accordance with Section 2.4(c) of this Agreement and as may be increased by any Incremental Revolving Commitments made in accordance with Section 2.16 of this Agreement.

"Merger" has the meaning assigned in the Recitals hereto.

"Minimum Equity Contribution Percentage" has the meaning specified therefor in the Recitals to this Agreement.

"MNPI" means material information concerning Holdings, any Subsidiary of Holdings or their securities that has not been disseminated in a manner making it available to investors generally, within the meaning of Regulation FD under the Securities Act and the Exchange Act. For purposes of this definition, "material information" means information concerning Holdings, any Subsidiary of Holdings, or any of their securities, that is material for purposes of the United States federal and state securities laws.

"Moody's" has the meaning specified therefor in the definition of Cash Equivalents.

"Multiemployer Plan" means any employee benefit plan which is a "multiemployer plan" as defined in Section 3(37) of ERISA, that is subject to the provisions of Title IV of ERISA, and in respect of which any Borrower or any of its Restricted Subsidiaries or any of their respective ERISA Affiliates, sponsors, maintains or contributes to or has an obligation to contribute to, or with respect to which any of them has any liability, contingent or otherwise.

"Narrative Report" means, with respect to the financial statements in respect of which it is delivered, a customary narrative report describing the operations of Holdings, Intermediate Holdings, CP Holdings LLC, any Borrower and its Restricted Subsidiaries for the relevant Fiscal Quarter or Fiscal Year and for the period from the beginning of the then-current Fiscal Year to the end of the period to which the relevant financial statements relate.

"Net Proceeds" means (a) with respect to any Disposition, the cash proceeds (including Cash Equivalents and cash proceeds subsequently received (as and when received) in respect of non-cash consideration initially received) received by any Borrower or any Restricted Subsidiary, net of (i) selling costs and out-of-pocket expenses (including reasonable broker's fees or commissions, legal fees, transfer and similar Taxes and the Borrower's good faith estimate of income Taxes paid or payable (including pursuant to Tax sharing arrangements) in connection with such Disposition), (ii) amounts provided as a reserve in accordance with GAAP against any liabilities under any indemnification obligation or purchase price adjustment associated with such Disposition (provided that to the extent and at the time any such amounts are released from such reserve, such amounts shall constitute Net Proceeds), (iii) the principal amount, premium or penalty, if any, interest and other amounts on any Indebtedness (other than the Loans, Indebtedness under the Term Loan Facility Agreement and any other Indebtedness secured by a Lien that is pari passu or expressly subordinated to the Lien on the Collateral securing the Secured Obligations) which is secured by the asset sold in such Disposition and which is required to be repaid or otherwise comes due or would be in default and is repaid (other than any such Indebtedness that is assumed by the purchaser of such asset) and (iv) cash escrows (until released from escrow to any Borrower or any of its Restricted Subsidiaries) from the sale price for such Disposition; and (b) with respect to any issuance or incurrence of Indebtedness or Capital Stock, the cash proceeds thereof, net of all Taxes and customary fees, commissions, costs, underwriting discounts and other fees and expenses incurred in connection therewith, in each case, less any withholding Taxes payable upon the distribution of such amounts to the Borrowers or any of their Restricted Subsidiaries.

"New Lender" has the meaning specified therefor in Section 16.5(e) of this Agreement.

"NOLV" means, as to Eligible Rolling Stock Collateral or Eligible Inventory of Borrowers, at any time, the value of such Eligible Rolling Stock Collateral or Eligible Inventory determined on an orderly liquidation basis, reduced by commissions, fees, costs and expenses reasonably contemplated in connection with the liquidation thereof, as set forth in the most recent appraisal thereof delivered to Agent in form and substance satisfactory to Agent.

"Non-Consenting Lender" has the meaning specified therefor in Section 14.2(a) of this Agreement.

"Non-Defaulting Lender" means each Lender other than a Defaulting Lender.

"Non-Loan Party Cap" means, with respect to any Indebtedness, as of any date of determination and after giving pro forma effect thereto and the use of proceeds thereof, an amount for all such Indebtedness incurred on or prior to such date of determination equal to $10,000,000.

"Non-Loan Party Investment Cap" means, with respect to any Investment, as of any date of determination and after giving pro forma effect thereto, an amount for all such Investments incurred on or prior to such date of determination equal to the greater of $20,000,000 and twenty-five percent (25%) of Consolidated Adjusted EBITDA for the most recently ended Test Period.

"Non-Loan Party Indebtedness" means Indebtedness incurred by Restricted Subsidiaries that are not Loan Parties pursuant to 6.1(i), 6.1(k) and the proviso to 6.1(p).

"Non-Management Equityholders" means the individuals who are (i) identified on Exhibit A to the Rollover Agreement, dated as of September 7, 2018, among the rollover holders party thereto, Holdings and Buyer, (ii) identified by Holdings and Buyer as "Non-Management Equityholders" pursuant to the applicable rollover documentation by written notice to the Administrative Agent delivered at least two (2) Business Days prior to the Closing Date, and (iii) identified on Schedule I (the "Vendors") to the UK Share Purchase Agreement, dated as of September 7, 2018, among the Vendors, Lux Concrete Holdings II S.A R.L. and Holdings.

"Nuveen" has the meaning assigned in the Recitals hereto.

"Obligations" means the US Obligations and the UK Obligations, as the context requires.

"OFAC" means The Office of Foreign Assets Control of the US Department of the Treasury.

"Originating Lender" has the meaning specified therefor in Section 13.1(e) of this Agreement.

"Other Taxes" means all present or future stamp, court, excise, value added or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant or enforced any Loan Document or sold or assigned an interest in any Loan or Loan Document) imposed with respect to an assignment (other than an assignment made pursuant to Section 2.11).

"Overadvance" means, as of any date of determination, that the Revolver Usage is greater than any of the limitations set forth in Section 2.1 or Section 2.11.

"Parent Company" means (a) Holdings, and (b) any other Person of which the Target is an indirect Wholly-Owned Subsidiary.

"Participant" has the meaning specified therefor in Section 13.1(e) of this Agreement.

"Participant Register" has the meaning set forth in Section 13.1(i) of this Agreement.

"Patent Security Agreement" has the meaning specified therefor in the US Guaranty and Security Agreement.

"Patriot Act" has the meaning specified therefor in Section 4.19 of this Agreement.

"Payment Conditions" means, at the time of determination with respect to any Specified Transaction, that:

(a) no Event of Default then exists or would arise as a result of the consummation of such Specified Transaction,

(b) Excess Availability (i) at all times during the 30 consecutive days immediately preceding the date of consummation of such Specified Transaction, calculated on a *pro forma basis* as if such Specified Transaction was consummated and the borrowing of any Loans or issuance of any Letters of Credit, if any, in connection therewith had taken place, on the first day of such period, and (ii) after giving effect to such Specified Transaction (and such borrowings or issuances hereunder, if any), is not less than (A) in the case of a Specified Transaction consisting of Permitted Investments or a Restricted Debt Payment, the greater of (1) $7,250,000 and (2) 15.0% of the Line Cap, and (B) in the case of a Specified Transaction consisting of a Restricted Payment, the greater of (1) $8,500,000 and (2) 17.5% of the Line Cap,

(c) the Fixed Charge Coverage Ratio of Holdings and its Restricted Subsidiaries is equal to or greater than 1.00:1.00 for the trailing 12-month period most recently ended for which financial statements are required to have been delivered to Agent pursuant to this Agreement (calculated on a pro forma basis as if such Specified Transaction was consummated on the last day of such 12-month period (it being understood that such Specified Transaction shall also be deemed consummated on the last day of such 12-month period for purposes of calculating the Fixed Charge Coverage Ratio under this clause (c) for any subsequent Specified Transaction), and taking into account the full amount of any Restricted Payments whether or not such Restricted Payments would be included in the calculation of Fixed Charges pursuant to the definition thereof), provided that (A) if at no time during the 30-consecutive day period immediately preceding such Specified Transaction was Excess Availability less than, with respect to Permitted Investments and Restricted Debt Payments, the greater of (x) $8,500,000 and (y) 17.5% of the Line Cap and (B) with respect to Restricted Payments, the greater of (i) $10,000,000 and (ii) 20% of the Line Cap (in each case, calculated on a *pro forma* basis to include the borrowing of any Loans or issuance of any Letters of Credit in connection with the Specified Transaction), then this clause (c) shall not apply, and

(d) Administrative Borrower has delivered a customary officer's certificate to Agent certifying as to compliance with the requirements of clauses (a) through (c) (if applicable).

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

"Pension Plan" means any employee pension benefit plan, as defined in Section 3(2) of ERISA (other than a Multiemployer Plan), which is subject to the provisions of Title IV of ERISA or Sections 412 or 430 of the IRC or Sections 302 or 303 of ERISA and which any Borrower or any of its Restricted Subsidiaries, or any of their respective ERISA Affiliates, sponsors, maintains or contributes to or has an obligation to contribute to, or with respect to which any of them has any liability, contingent or otherwise.

"Pensions Regulator" means the body corporate called the Pensions Regulator established under Part I of the Pensions Act 2004 (UK).

"Perfection Certificate" means a certificate in the form of Exhibit P-1 to the Agreement.

"Perfection Requirements" means the filing of appropriate financing statements with the office of the Secretary of State or other appropriate office of the state of organization of each Loan Party, the filing of appropriate grants, assignments, notices or Intellectual Property Security Agreements with the U.S. Patent and Trademark Office and the U.S. Copyright Office, the proper recording or filing, as applicable, of Mortgages and fixture filings with respect to any Material Real Property constituting Collateral and any notations on certificates of title, in each case in favor of the Administrative Agent for the benefit of the Secured Parties and the delivery to the Agent of any stock certificate or promissory note required to be delivered pursuant to the applicable Loan Documents, together with instruments of transfer executed in blank.

"Permitted Acquisition" means any acquisition made by Holdings or any of its Restricted Subsidiaries, whether by purchase, merger or otherwise, of all or substantially all of the assets of, or any business line, unit or division of, any Person or of all of the outstanding Capital Stock of any Person who is engaged in a Similar Business and becomes a Restricted Subsidiary; provided that the total consideration paid by Persons that are Loan Parties (a) for the Capital Stock of any Person that does not become a Loan Party or is not a Loan Party, and (b) in the case of an asset acquisition, assets that are not acquired by any Loan Party, when taken together with the total consideration for all such Persons and assets so acquired after the Closing Date and all Investments made since the Closing Date pursuant to Section 6.6(b)(iii), shall not exceed the sum of (i) the Non-Loan Party Investment Cap and (ii) amounts otherwise available under Section 6.6 to be invested in non-Loan Parties (it being understood that amounts utilized under this clause (ii) shall be deemed a utilization of the applicable basket or exception in Section 6.6); provided that (A) the limitation described in this proviso shall not apply to any acquisition to the extent (1) any such consideration is financed with the proceeds of sales of the Qualified Capital Stock of, or common equity capital contributions to, Holdings or any Restricted Subsidiary (but only to the extent not otherwise applied to increase the Available Amount or Available Excluded Contribution Amount, or to make Restricted Payments or Restricted Debt Payments hereunder), or (2) the Person so acquired (or the Person owning the assets so acquired) becomes a Subsidiary Guarantor within the time periods required by Section 5.12 even though such Person owns Capital Stock in Persons that are not otherwise required to become Subsidiary Guarantors, if, in the case of this clause (2), at least 70.0% of the Consolidated Adjusted EBITDA of the Person(s) acquired in such acquisition (or the Persons owning the assets so acquired) (for this purpose and for the component definitions used in the definition of "Consolidated Adjusted EBITDA", determined on a consolidated basis for such Person(s) and their respective Restricted Subsidiaries) is generated by Person(s) that will become Subsidiary Guarantors within the time periods required by Section 5.12 (i.e., disregarding any Consolidated Adjusted EBITDA generated by Restricted Subsidiaries of such Persons that are not (or will not become) Subsidiary Guarantors), and (B) in the event that the amount available under the Non-Loan Party Investment Cap is reduced as a result of any acquisition of any Restricted Subsidiary that does not become a Loan Party or any assets that are not transferred to a Loan Party and such Restricted Subsidiary subsequently becomes a Loan Party or such assets are subsequently transferred to a Loan Party, as the case may be, the amount available under the Non-Loan Party Investment Cap shall be proportionately increased as a result thereof based upon the amount of the Non-Loan Party Investment Cap utilized with respect to the acquisition of such Person or assets, as the case may be; provided further that no Event of Default then exists or would result after giving pro forma effect to such acquisition, provided, further, that if such purchase or other acquisition is a Limited Condition Transaction, and the Borrowers make an LCT Election with respect to such Limited Condition Transaction, the foregoing condition shall be tested as of the LCT Test Date, so long as upon consummation of such acquisition, no Event of Default under Section 8.1(a), 8.1(f) (solely with respect to Borrowers) or 8.1(g) (solely with respect to Borrowers) shall exist.

"Permitted Discretion" means a determination made in good faith in the exercise of reasonable business judgment based on how a secured asset-based lender with similar rights providing a credit facility of the type set forth in this Agreement would act in similar circumstances at the time with the information then available to it.

"Permitted Holders" means, collectively, (i) the Sponsor, (ii) Nuveen Alternatives Advisors, LLC, BBCP Investors, LLC, Lead Common Investor, Institutional Investors, and their respective Fund Affiliates; and (iii) the Non-Management Equityholders and the Management Equityholders (or, in each case, within sixty (60) days after their death or incapacity, one or more successors acceptable to the Agent).

"Permitted Investments" means Investments permitted pursuant to Section 6.6.

"Permitted Liens" means Liens permitted pursuant to Section 6.2.

"Person" means natural persons, corporations, limited liability companies, limited partnerships, general partnerships, limited liability partnerships, joint ventures, trusts, land trusts, business trusts, or other organizations, irrespective of whether they are legal entities, and governments and agencies and political subdivisions thereof.

"Plan" means an "employee benefit plan" as defined in Section 3(3) of ERISA (regardless of whether such plan is subject to ERISA) that Holdings or any of its Restricted Subsidiaries sponsors, maintains or contributes to or has an obligation to contribute to, or otherwise has liability, contingent or otherwise.

"Platform" has the meaning specified therefor in Section 5.1(m) of this Agreement.

"Premier Concrete" has the meaning assigned in the Preamble hereto.

"Process Agent" has the meaning specified therefor in Section 17.19 of this Agreement.

"Pro Forma Basis" has the meaning set out in the Term Loan Facility Agreement (as in effect on the Closing Date).

"Pro Rata Share" means, as of any date of determination:

(a) with respect to a Lender's obligation to make all or a portion of the US Revolving Loans, with respect to such Lender's right to receive payments of interest, fees, and principal with respect to the US Revolving Loans, and with respect to all other computations and other matters related to the US Revolver Commitments or the US Revolving Loans, the percentage obtained by *dividing* (i) the US Revolving Loan Exposure of such Lender *by* (ii) the aggregate US Revolving Loan Exposure of all Lenders,

(b) with respect to a Lender's obligation to participate in the Letters of Credit, with respect to such Lender's obligation to reimburse Issuing Bank, and with respect to such Lender's right to receive payments of Letter of Credit Fees, and with respect to all other computations and other matters related to the Letters of Credit, the percentage obtained by *dividing* (i) the US Revolving Loan Exposure of such Lender *by* (ii) the aggregate US Revolving Loan Exposure of all Lenders; provided, that if all of the US Revolving Loans have been repaid in full and all US Revolver Commitments have been terminated, but Letters of Credit remain outstanding, Pro Rata Share under this clause shall be determined as if the US Revolver Commitments had not been terminated and based upon the US Revolver Commitments as they existed immediately prior to their termination,

(c) with respect to a Lender's obligation to make all or a portion of the UK Revolving Loans, with respect to such Lender's right to receive payments of interest, fees, and principal with respect to the UK Revolving Loans, and with respect to all other computations and other matters related to the UK Revolver Commitments or the UK Revolving Loans, the percentage obtained by *dividing* (i) the UK Revolving Loan Exposure of such Lender *by* (ii) the aggregate UK Revolving Loan Exposure of all Lenders, and

(d) with respect to all other matters and for all other matters as to a particular Lender (including the indemnification obligations arising under Section 15.7 of this Agreement), the percentage obtained by *dividing* (i) the Revolving Loan Exposure of such Lender, by (ii) the aggregate Revolving Loan Exposure of all Lenders, in any such case as the applicable percentage may be adjusted by assignments permitted pursuant to Section 13.1 of this Agreement; provided, that if all of the Loans have been repaid in full, all Letters of Credit have been made the subject of Letter of Credit Collateralization, and all Commitments have been terminated, Pro Rata Share under this clause shall be determined as if the Revolving Loan Exposures had not been repaid, collateralized, or terminated and shall be based upon the Revolving Loan Exposures as they existed immediately prior to their repayment, collateralization, or termination.

"Projections" means the financial projections and pro forma financial statements of the Borrowers and their subsidiaries included in the Information Memorandum (or a supplement thereto).

"Protective Advances" has the meaning specified therefor in Section 2.3(d)(i).

"Public Lender" has the meaning specified therefor in Section 17.9(c) of this Agreement.

"Qualified Capital Stock" of any Person means any Capital Stock of such Person that is not Disqualified Capital Stock.

"Qualified Equity Interest" means and refers to any Equity Interests issued by Holdings (and not by one or more of its Subsidiaries) that is not a Disqualified Equity Interest.

"Qualifying Lender" means for the purposes of Section 16.5 of this Agreement a Lender which is beneficially entitled to interest payable to that Lender in respect of an advance under a Loan Document and is:

(a) a Lender:

(i) which is a bank (as defined for the purpose of section 879 of the UK ITA) making an advance under a Loan Document and is within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance or would be within such charge as respects such payment apart from section 18A of the CTA; or

(ii) in respect of an advance made under a Loan Document by a person that was a bank (as defined for the purpose of section 879 of the UK ITA) at the time that that advance was made and within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance; or

(b) a Lender which is:

(i) a company resident in the United Kingdom for United Kingdom tax purposes;

(ii) a partnership, each member of which is:

(A) a company so resident in the United Kingdom for UK tax purposes; or

(B) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of Section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or

(iii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of Section 19 of the CTA) of that company; or

(c) a Treaty Lender; or

(d) a building society (as defined for the purposes of section 880 of the UK ITA).

"Quarterly Average Excess Availability" means, at any time, the sum of the aggregate amount of Excess Availability for each Business Day for the immediately preceding three-month period (calculated as of the end of each respective Business Day) *divided by* the number of Business Days in such three-month period, commencing on the first Business Day of such three-month period.

"Quarterly Average Revolver Usage" means, at any time, the sum of the aggregate amount of Revolver Usage for each Business Day for the immediately preceding three-month period (calculated as of the end of each respective Business Day) *divided by* the number of Business Days in such three-month period, commencing on the first Business Day of such three-month period.

"Real Property" means any estates or interests in real property now owned or hereafter acquired by any Borrower or one of its Subsidiaries and the improvements thereto.

"Receivable Reserves" means, as of any date of determination, those reserves that Agent deems necessary or appropriate, in its Permitted Discretion and subject to Section 2.1(e), to establish and maintain (including reserves for rebates, discounts, warranty claims, and returns) with respect to the Eligible Accounts or the Maximum Revolver Amount.

"Recipient" has the meaning specified therefor in Section 16.5(n)(ii) of this Agreement.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Reference Period" means any period of 12 consecutive calendar months.

"Refinancing Indebtedness" has the meaning set forth in Section 6.1(m) of this Agreement.

"Register" has the meaning set forth in Section 13.1(h) of this Agreement.

"Registered Loan" has the meaning set forth in Section 13.1(h) of this Agreement.

"Regulation" has the meaning specified therefor in Section 4.20 of this Agreement.

"Related Agreements" means the Concrete Pumping Acquisition Agreement (including all other documents entered into in connection therewith) and the Term Loan Facility Agreement (including all other documents entered into in connection therewith).

"Related Fund" means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course and that is administered, advised or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages a Lender.

"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, sediment, surface water or groundwater.

"Remedial Action" means all actions taken to (a) clean up, remove, remediate, contain, treat, monitor, assess, evaluate, or in any way address Hazardous Materials in the indoor or outdoor environment, (b) prevent or minimize a release or threatened release of Hazardous Materials so they do not migrate or endanger or threaten to endanger public health or welfare or the indoor or outdoor environment, (c) restore or reclaim natural resources or the environment, (d) perform any pre-remedial studies, investigations, or post-remedial operation and maintenance activities, or (e) conduct any other actions with respect to Hazardous Materials required by Environmental Laws.

"Replacement Lender" has the meaning specified therefor in Section 2.13(b) of this Agreement.

"Report" has the meaning specified therefor in Section 15.16(a) of this Agreement.

"Required Lenders" means, at any time, Lenders having or holding more than 50% of the sum of the aggregate Revolving Loan Exposure of all Lenders, provided, that (i) the Revolving Loan Exposure of any Defaulting Lender shall be disregarded in the determination of the Required Lenders, and (ii) at any time there are 2 or more Lenders, "Required Lenders" must include at least 2 Lenders (who are not Affiliates of one another).

"Requirements of Law" means, with respect to any Person, collectively, the common law and all federal, state, local, foreign, multinational or international laws, statutes, codes, treaties, rules and regulations, guidelines, ordinances, orders, judgments, writs, injunctions, decrees (including administrative or judicial precedents or authorities) and the interpretation or administration thereof by, and other determinations, directives, requirements of any Governmental Authority, in each case that are applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Reserves" means, as of any date of determination, those reserves (including, without limitation, any Receivable Reserves, Bank Product Reserves, UK Priority Payable Reserves and/or Vehicle Sales/Use Taxes Reserve, if any) that Agent deems necessary or appropriate, in its Permitted Discretion and subject to Section 2.1(e), to establish and maintain (including reserves with respect to (a) sums that Holdings or its Subsidiaries are required to pay under any Section of this Agreement or any other Loan Document (such as taxes, assessments, insurance premiums, or, in the case of leased assets, rents or other amounts payable under such leases) and has failed to pay, and (b) amounts owing by Holdings or its Subsidiaries to any Person to the extent secured by a Lien on, or trust over, any of the Collateral (other than a Permitted Lien), which Lien or trust, in the Permitted Discretion of Agent likely would have a priority superior to Agent's Liens (such as Liens or trusts in favor of landlords, warehousemen, carriers, mechanics, materialmen, laborers, or suppliers, or Liens or trusts for ad valorem, excise, sales, or other taxes where given priority under applicable law) in and to such item of the Collateral) with respect to, without double counting, the UK Borrowing Base, the US Borrowing Base and/or the Aggregate Borrowing Base or the Maximum Revolver Amount.

"Responsible Officer" means, with respect to any Person, the chief executive officer, the president, the chief financial officer, the treasurer, any assistant treasurer, any executive vice president, any senior vice president, any vice president or the chief operating officer of such Person and any other individual or similar official thereof responsible for the administration of the obligations of such Person in respect of this Agreement, and, as to any document delivered on the Closing Date, shall include any secretary or assistant secretary or any other individual or similar official thereof with substantially equivalent responsibilities of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of any Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party, and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

"Responsible Officer Certification" means, with respect to the financial statements for which such certification is required, the certification of a Responsible Officer of Holdings that such financial statements fairly present, in all material respects, in accordance with GAAP, the consolidated financial condition of Holdings as at the dates indicated and its consolidated income and cash flows for the periods indicated, subject to changes resulting from audit and normal year-end adjustments.

"Restricted Debt" has the meaning specified therefor in Section 6.4(b) of this Agreement.

"Restricted Debt Payment" has the meaning specified therefor in Section 6.4(b) of this Agreement.

"Restricted Payment" means (a) any dividend or other distribution on account of any shares of any class of the Equity Interests of the Target, except a dividend payable solely in shares of Qualified Equity Interests to the holders of such class; (b) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value of any shares of any class of the Equity Interests of Holdings and (c) 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 the Equity Interests of Holdings now or hereafter outstanding.

"Restricted Subsidiary" means, as to any Person, any subsidiary of such Person that is not an Unrestricted Subsidiary. Unless otherwise specified, "Restricted Subsidiary" shall mean Holdings and the Borrowers and any Restricted Subsidiary of such Person.

"Retained Excess Cash Flow Amount" means, at any date of determination, an amount, not less than zero and determined on a cumulative basis, that is equal to the aggregate cumulative sum of Excess Cash Flow (as defined in the Term Loan Facility Agreement) that is not required to be applied as a mandatory prepayment under Section 2.08(b)(i) of the Term Loan Facility Agreement (without giving effect to clause (B)(1) or (B)(2) thereof or to Section 2.08(b)(iv) of the Term Loan Facility Agreement, but giving effect to the proviso at the end of Section 2.08(b)(i) of the Term Loan Facility Agreement) for all Excess Cash Flow Periods (as defined in the Term Loan Facility Agreement) ending after the Closing Date and prior to such date of determination.

"Revaluation Date" means (a) with respect to any Loan denominated in GBP, each of the following: (i) each date of a Borrowing of such Loan, and (ii) such additional dates as Agent shall reasonably determine or the Required Lenders shall reasonably require, in each case, taking into account any reasonable request by a UK Borrower, and (b) with respect to any other Obligations denominated in GBP, each date as Agent shall reasonably determine (taking into account any reasonable request by a UK Borrower) unless otherwise prescribed in this Agreement or any other Loan Documents.

"Revolver Commitments" means a US Revolver Commitment or a UK Revolver Commitment, as the context requires.

"Revolver Usage" means the US Revolver Usage or the UK Revolver Usage, as the context requires.

"Revolving Lender" means a Lender that has a Revolving Loan Exposure or Letter of Credit Exposure.

"Revolving Loan Exposure" means the US Revolving Loan Exposure or the UK Revolving Loan Exposure, as the context requires.

"Revolving Loans" means UK Revolving Loans or US Revolving Loans, as the context requires.

"Rolling Equity" has the meaning specified therefor in the Recitals of this Agreement.

"Rolling Investors" has the meaning specified therefor in the Recitals of this Agreement.

"Rolling Stock" means all of the Loan Parties' trucks (including, without limitation, all boom pump trucks, telebelt trucks, flatbed trucks and truck mounted pumps), and any and all other vehicles used in any Loan Party's business, along with any mobile Equipment and/or UK Equipment related to or used in connection with the foregoing, in each case wherever located.

"Rolling Stock Collateral" means all Rolling Stock constituting Collateral.

"Rolling Stock Collateral Administrator" means Corporation Service Company, and its successors and assigns, together with any substitute or supplemental collateral custodian acceptable to Agent.

"Rolling Stock Custodian Agreements" means, collectively, the following: (a) any collateral administration agreement by and among, *inter alia*, the US Loan Parties, the Rolling Stock Collateral Administrator, the Agent, and the Term Loan Agent, and (b) all of the other agreements, documents and instruments now or at any time hereafter executed and/or delivered in connection therewith or related thereto, in each case in form and substance satisfactory to Agent, in each case, as the same may be amended, restated, supplement or otherwise modified from time to time.

"Rollover Equity" has the meaning specified therefor in the Recitals of this Agreement.

"Sale and Lease-Back Transaction" means any transaction under which any Borrower or any of its Restricted Subsidiaries shall, directly or indirectly, become or remain liable as lessee or as a guarantor or other surety with respect to any lease of any property (whether real, personal or mixed), whether now owned or hereafter acquired, which such Borrower or the relevant Restricted Subsidiary (a) is to sell or to transfer to any other Person (other than any Borrower or any of its Restricted Subsidiaries) and (b) intends to use for substantially the same purpose as the property which has been or is to be sold or transferred by such Borrower or such Restricted Subsidiary to any Person (other than such Borrower or any of its Restricted Subsidiaries) in connection with such lease.

"Sanctioned Entity" means (a) a country or territory or a government of a country or territory, (b) an agency of the government of a country or territory, (c) an organization directly or indirectly controlled by a country or territory or its government, or (d) a Person resident in or determined to be resident in a country or territory, in each case of clauses (a) through (d) that is a target of Sanctions, including a target of any country sanctions program administered and enforced by OFAC.

"Sanctioned Person" means, at any time (a) (i) any Person named on the list of Specially Designated Nationals and Blocked Persons maintained by OFAC, OFAC's consolidated Non-SDN list each administered and enforced by OFAC; (ii) the "Financial Sanctions: Consolidated List of Targets" and "Ukraine: list of persons subject to restrictive measures in view of Russia's actions destabilizing the situation in Ukraine" administered and enforced by HMT, in each case as amended, supplemented or substituted from time to time; or (iii) or any other Sanctions-related list maintained by any Governmental Authority, (b) a Person or legal entity that is a target of Sanctions, (c) any Person operating, organized or resident in a Sanctioned Entity, or (d) any Person directly or indirectly owned or controlled (individually or in the aggregate) by or acting on behalf of any such Person or Persons described in clauses (a) through (c) above.

"Sanctions" means the economic, financial, trade, sectoral, secondary, trade embargoes anti-terrorism laws or other sanctions laws, regulations or embargoes, administered and enforced from time to time by any Sanctions Authority.

"Sanctions Authority" means: (a) the United Nations Security Council; (b) the European Union or any European Member State; or (c) the governmental institutions and agencies of the United States of America, including, without limitation, the Office of Foreign Assets Control of the United States Department of Treasury (OFAC), the US Department of State, the US Department of Commerce, or through any existing or future executive order or the governmental institutions and agencies of the United Kingdom, including, without limitation, Her Majesty's Treasury (HMT) or any other Governmental Authority with jurisdiction over any member of Lender Group or any Loan Party or any of their respective Subsidiaries or Affiliates.

"S&P" has the meaning specified therefor in the definition of Cash Equivalents.

"Scheduled Unavailability Date" has the meaning specified therefor in Section 15.18(a) of this Agreement.

"SEC" means the United States Securities and Exchange Commission and any successor thereto.

"Secured Party" has the meaning specified therefor in Section 15.18(a) of this Agreement.

"Securities Account" means a securities account (as that term is defined in the Code).

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

"Secured Leverage Ratio" means the ratio, as of any date of determination, of (a) Consolidated Secured Debt (as defined in the Term Loan Facility Agreement as in effect on the Closing Date) as of such date to (b) Consolidated Adjusted EBITDA for the Test Period then most recently ended of the US Borrowers and their Restricted Subsidiaries on a consolidated basis.

"Security Documents" means the UK Security Documents and/or the US Security Documents, as the context requires.

"Settlement" has the meaning specified therefor in Section 2.3(e)(i) of this Agreement.

"Settlement Date" has the meaning specified therefor in Section 2.3(e)(i) of this Agreement.

"Solvency Certificate" means a certificate in the form of Exhibit S-1 to the Agreement.

"Solvent" means, with respect to any Person as of any date of determination, that (a) the fair value of the assets of such Person's debts and liabilities exceeds such Person's debts and liabilities, subordinated, contingent or otherwise, (b) the present fair saleable value of the property of such Person is greater than the amount that will be required to pay the probable liability, on a consolidated basis, of their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured, (c) such Person is able to pay its debts and liabilities, subordinated, contingent or otherwise, as such liabilities become absolute and matured, (d) such Person is not engaged in, and are not about to engage in, business for which they have unreasonably small capital, and (e) such Person is "solvent" or not "insolvent", as applicable within the meaning given those terms and similar terms under applicable Debtor Relief Laws or other 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 (irrespective of whether such contingent liabilities meet the criteria for accrual under Statement of Financial Accounting Standard No. 5).

"Specified Acquisition Agreement Representations" shall mean such of the representations made by or on behalf of Holdings, its subsidiaries or their respective businesses in the Concrete Pumping Acquisition Agreement as are material to the interests of the Lenders, but only to the extent that Concrete Merger Sub or any of its Affiliates have the right (giving effect to applicable cure provisions) to terminate its obligations under the Concrete Pumping Acquisition Agreement or to decline to consummate the Concrete Pumping Acquisition as a result of a breach of such representations in the Concrete Pumping Acquisition Agreement.

"Specified Event of Default" means any Event of Default occurring pursuant to: (a) Section 8.1(a) of this Agreement; (b) Section 8.1(e) of this Agreement arising due to the failure of Holdings or its Subsidiaries to comply with Section 5.1(c) of this Agreement (solely with respect to the failure of the Loan Parties to deliver a Compliance Certificate in accordance with the terms thereof), (c) Section 8.1(c) of this Agreement arising due to the failure of Holdings or its Subsidiaries to comply with (i) Section 5.2 of this Agreement (solely with respect to the failure of the Loan Parties to deliver a Borrowing Base Certificate in accordance with the terms thereof), or (ii) Article 7 of this Agreement; (d) Section 8.1(f) of this Agreement; (e) Section 8.1(g) of this Agreement; (f) solely with respect to any Borrowing Base Certificate, Section 8.1(d) of this Agreement or (g) Section 7 of the US Guaranty and Security Agreement.

"Specified Representations" mean the representations and warranties set forth in Section 4.1(a) (as it relates to organizational existence of the Loan Parties), Section 4.2 (as it relates to corporate or organizational power or authority (in connection with the due authorization, execution, delivery and performance of the Loan Documents) and the enforceability thereof), Section 4.3(b)(i), Section 4.8, Section 4.12 (as it relates to the creation, validity and perfection of the security interests in the Collateral), Section 4.14, Section 4.15 (limited to the last sentence thereof solely as it relates to the use of proceeds), Section 4.16 and Section 4.19(b).

"Specified Transaction" means, any Disposition, Investment (including, without limitation, any Permitted Acquisition), prepayment or incurrence of Indebtedness, the incurrence of a Lien or the making of a Restricted Payment (or declaration of any prepayment or Restricted Payment) or Restricted Debt Payment.

"Sponsor" means Argand Partners LP and its Affiliates and its funds, partnerships or other co-investment vehicles managed, advised or controlled by the foregoing, but not including, however, any of their respective portfolio companies.

"Sponsor Affiliated Entity" means Sponsor or any of its Affiliates (other than Loan Parties or their Subsidiaries and other than operating portfolio companies of Sponsor and its Affiliates).

"Sponsor Equity Contribution" has the meaning specified therefor in the Recitals of this Agreement.

"Sponsor Fees" means (i) any fee paid or payable to the Sponsor and its Affiliates pursuant to any Sponsor Management Agreement and (ii) any fee paid or payable to the Sponsor (or any Person that is an Affiliate of, or otherwise employed by, the Sponsor) that is in respect of the Sponsor's (or such Person's) service as a member of the board of directors (or similar governing body) of Holdings, Intermediate Holdings, CP Holdings LLC, any Borrower or any of its Restricted Subsidiaries; provided that (a) the aggregate amount of all such fees payable pursuant to the foregoing clauses (i) and (ii) in any fiscal year shall not exceed $1,000,000, plus the amount of any such fees that have accrued but were not permitted to be paid under Section 6.8(o) due to the occurrence and continuance of an Event of Default, and (b) Sponsor Fees shall not include any amounts attributable to the payment or reimbursement of reasonable out-of-pocket costs to, and indemnities provided on behalf of, the Sponsor or such Person either (x) in connection with management, monitoring, consulting and advisory services provided by them to Holdings, Intermediate Holdings, CP Holdings LLC, any Borrower or any of its Restricted Subsidiaries or (y) serving in its, his or her capacity as a member of the Board of Directors (or similar governing body) of Holdings, Intermediate Holdings, CP Holdings LLC, any Borrower or any of its Restricted Subsidiaries.

"Sponsor Management Agreement" means any management, monitoring, consulting or advisory services agreement entered into from time to time between the Sponsor and/or its Affiliates and Parent, Intermediate Parent, the Borrowers or any of their Restricted Subsidiaries, in each case in form and substance reasonably satisfactory to the Agent, and without giving effect to any amendments, modifications or supplements thereto unless such amendments, modifications or supplements are in form and substance reasonably satisfactory to the Agent.

"Spot Rate" means, for a currency, the rate determined by Agent to be the rate quoted by Wells Fargo as the spot rate for the purchase by Wells Fargo of such currency with another currency through its principal foreign exchange trading office at approximately 1:00 p.m. on the date 2 Business Days prior to the date as of which the foreign exchange computation is made; provided, that Agent may obtain such spot rate from another financial institution designated by Agent if Wells Fargo acting in such capacity does not have as of the date of determination a spot buying rate for any such currency.

"Standard Letter of Credit Practice" means, for Issuing Bank, any domestic or foreign law or letter of credit practices applicable in the city in which Issuing Bank issued the applicable Letter of Credit or, for its branch or correspondent, such laws and practices applicable in the city in which it has advised, confirmed or negotiated such Letter of Credit, as the case may be, in each case, (a) which letter of credit practices are of banks that regularly issue letters of credit in the particular city, and (b) which laws or letter of credit practices are required or permitted under ISP or UCP, as chosen in the applicable Letter of Credit.

"Subject Party" has the meaning specified therefor in Section 16.5(h)(ii) of this Agreement.

"Subsidiary" of a Person means a corporation, partnership, limited liability company, or other entity in which that Person directly or indirectly owns or controls the Equity Interests having ordinary voting power to elect a majority of the Board of Directors of such corporation, partnership, limited liability company, or other entity.

"Successor Borrower" has the meaning specified therefor in Section 6.7(a) of this Agreement.

"Successor Buyer" has the meaning specified therefor in Section 6.11(d) of this Agreement.

"Successor Holdings" has the meaning specified therefor in Section 6.11(d) of this Agreement.

"Successor Intermediate Holdings" has the meaning specified therefor in Section 6.11(d) of this Agreement.

"Supermajority Lenders" means, at any time, Lenders having or holding more than 66 2/3% of the aggregate Revolving Loan Exposure of all Lenders; provided, that (i) the Revolving Loan Exposure of any Defaulting Lender shall be disregarded in the determination of the Supermajority Lenders, and (ii) at any time there are two or more Lenders (who are not Affiliates of one another), "Supermajority Lenders" must include at least two Lenders (who are not Affiliates of one another or Defaulting Lenders).

"Swap Obligation" means, with respect to any Loan Party, any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act.

"Swing Lender" means Wells Fargo or any other Lender that, at the request of Borrowers and with the consent of Agent agrees, in such Lender's sole discretion, to become the Swing Lender under Section 2.3(b) of this Agreement.

"Swing Loan" has the meaning specified therefor in Section 2.3(b) of this Agreement.

"Swing Loan Exposure" means, as of any date of determination with respect to any Lender, such Lender's Pro Rata Share of the Swing Loans on such date.

"Target" has the meaning assigned in the Preamble to the Agreement.

"Target Refinancing" has the meaning assigned in Schedule 3.1 attached to the Agreement.

"Tax Confirmation" means for the purposes Section 16.5 of this Agreement, a confirmation by a Lender that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Loan Document is either:

(i) a company resident in the United Kingdom for United Kingdom tax purposes;

(ii) a partnership each member of which is:

(1) a company so resident in the United Kingdom; or

(2) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or

(iii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.

"Tax Credit" means for the purposes of this Agreement, a credit against, relief or remission for, or repayment of, any Taxes.

"Tax Deduction" means for the purposes Section 16.5 of this Agreement, a deduction or withholding for or on account of Taxes from a payment under a Loan Document, other than a deduction or withholding from a payment under a Loan Document required by FATCA.

"Tax Indemnitee" has the meaning specified therefor in Section 16.1 of this Agreement.

"Tax Payment" means for the purposes Section 16.5 of this Agreement, either the increase in a payment made by a UK Borrower to a Lender under Section 16.5(b) of this Agreement or a payment under Section 16.5(c) of this Agreement.

"Taxes" means any taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), fees, assessments or other charges of whatever nature now or hereafter imposed by any jurisdiction or by any political subdivision or taxing authority thereof or therein, and all interest, additions, penalties or similar liabilities with respect thereto.

"Tax Lender" has the meaning specified therefor in Section 14.2(a) of this Agreement.

"Term Agent" shall mean Credit Suisse AG, Cayman Islands Branch, or any successor agent thereto.

"Term Loan Lenders" means the "Lenders" as defined in the Term Loan Facility Agreement.

"Term Loan Facility" has the meaning assigned in the Recitals hereto.

"Term Loan Facility Agreement" shall mean the Term Loan Agreement, dated as of December 6, 2018, by and among Holdings, Intermediate Holdings, Concrete Merger Sub, the Target, Credit Suisse AG, Cayman Islands Branch, as administrative agent, and the lenders from time to time party thereto, as the same may be amended, amended and restated, modified, replaced or refinanced as permitted under the Intercreditor Agreement.

"Term Loan Fee Letter" shall mean the "Fee Letter" under and as defined in the Term Loan Facility Agreement.

"Termination Date" has the meaning specified therefor in Section 5 of this Agreement.

"Test Period" means, as of any date, the period of four consecutive fiscal quarters then most recently ended for which financial statements under Section 5.1(a) or (b), as applicable, have been delivered (or are required to have been delivered); it being understood and agreed that prior to the first delivery of financial statements of Section 5.1, "Test Period" means the period of four consecutive fiscal quarters in respect of which financial statements for Holdings are available and have been delivered to the Agent.

"Threshold Amount" means $30,000,000.

"Total Leverage Ratio" means the ratio, as of any date of determination, of (a) Consolidated Total Debt (as defined in the Term Loan Facility Agreement in effect on the Closing Date) outstanding as of such date to (b) Consolidated Adjusted EBITDA for the Test Period then most recently ended of the US Borrowers and their Restricted Subsidiaries on a consolidated basis.

"Trademark Security Agreement" has the meaning specified therefor in the US Guaranty and Security Agreement.

"Transaction Costs" means fees, premiums, expenses and other transaction costs (including original issue discount or upfront fees) payable or otherwise borne by Holdings and/or its subsidiaries in connection with the Transactions and the transactions contemplated thereby.

"Transactions" means, collectively, (a) the execution and delivery by the Loan Parties of the Loan Documents to which they are a party and the borrowing of Revolving Loans hereunder on the Closing Date, (b) the Merger and the other transactions contemplated by the Concrete Pumping Acquisition Agreement, (c) the Equity Contributions, (d) the Target Refinancing, (e) the execution and delivery by the Loan Parties of the Loan Documents (as defined in the Term Loan Facility Agreement) to which they are a party and (f) the payment of Transaction Costs.

"Transfer Date" has the meaning specified therefor in Section 16.5(f)(ii) of this Agreement.

"Treaty Lender" means in respect of a UK Borrower, a Lender which, on the date a payment of interest falls due under this Agreement:

(a) is treated as a resident of a Treaty State for the purposes of the relevant Treaty;

(b) does not carry on a business in the United Kingdom through a permanent establishment with which that Lender's participation in any Loan is effectively connected; and

(c) meets all other conditions in the Treaty for full exemption from United Kingdom taxation on interest which relate to the Lender (including its tax, qualified person or other status, the manner in which or the period for which it holds any rights under this Agreement and any other Loan Document, the reasons or purposes for its acquisition of such rights and the nature of any arrangements by which it disposes of or otherwise turns to account such rights).

"Treaty State" means a jurisdiction having a double taxation agreement (a "Treaty") with the United Kingdom which makes provision for full exemption from, or a full refund of, Taxes imposed by the United Kingdom.

"UCP" means, with respect to any Letter of Credit, the Uniform Customs and Practice for Documentary Credits 2007 Revision, International Chamber of Commerce Publication No. 600 and any version or revision thereof accepted by Issuing Bank for use.

"UK Administrative Borrower" has the meaning specified therefor in Section 17.14(b).

"UK Authorized Person" means any one of the individuals identified as an officer of UK Administrative Borrower on Schedule A-2, or any other officer of UK Administrative Borrower identified by UK Administrative Borrower as an authorized person with respect to UK Administrative Borrower and authenticated through Agent's electronic platform or portal in accordance with its procedures for such authentication.

"UK Availability" means, as of any date of determination, the aggregate Dollar Equivalent amount that UK Borrowers are entitled to borrow as UK Revolving Loans under Section 2.1(c) (after giving effect to the then outstanding UK Revolver Usage and all UK Reserves imposed in accordance with the terms hereof and then applicable thereunder).

"UK Bank Product" means any one or more of the following financial products or accommodations extended to any UK Loan Party by a Bank Product Provider: (a) credit cards (including commercial cards (including so-called "purchase cards", "procurement cards" or "p-cards")), (b) credit card processing services, (c) debit cards, (d) stored value cards, (e) Cash Management Services, or (f) transactions under Hedge Agreements.

"UK Bank Product Agreements" means those agreements entered into from time to time by any UK Loan Party with a Bank Product Provider in connection with the obtaining of any of the UK Bank Products.

"UK Bank Product Collateralization" means providing cash collateral (pursuant to documentation reasonably satisfactory to Agent) to be held by Agent for the benefit of the Bank Product Providers (other than the Hedge Providers) in an amount determined by Agent as sufficient to satisfy the reasonably estimated credit exposure with respect to the then existing UK Bank Product Obligations (other than UK Hedge Obligations).

"UK Bank Product Obligations" means (a) all obligations, liabilities, reimbursement obligations, fees, or expenses owing by any UK Loan Party to any Bank Product Provider pursuant to or evidenced by a UK Bank Product Agreement and irrespective of whether for the payment of money, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, (b) all UK Hedge Obligations, and (c) all amounts that Agent or any Lender is obligated to pay to a Bank Product Provider as a result of Agent or such Lender purchasing participations from, or executing guarantees or indemnities or reimbursement obligations to, a Bank Product Provider with respect to the UK Bank Products provided by such Bank Product Provider to a UK Loan Party.

"UK Bank Product Reserves" means, as of any date of determination, those reserves that Agent deems necessary or appropriate to establish (based upon the Bank Product Providers' determination of the liabilities and obligations of each UK Loan Party in respect of UK Bank Product Obligations) in respect of UK Bank Products then provided or outstanding.

"UK Borrower" and "UK Borrowers" have the respective meanings assigned in the Preamble hereto.

"UK Borrowing" means a borrowing consisting of UK Revolving Loans made on the same day by the UK Lenders.

"UK Borrowing Base" means, as of any date of determination, the Dollar Equivalent amount equal to the result of:

(a) 85% of the amount of Eligible Accounts of any UK Borrower, less the amount, if any, of the Dilution Reserve, *plus*

(b) *the lower of*

(i) $2,500,000,

(ii) 35% of the UK Borrowers' cost of Eligible Inventory, and

(iii) 85% of the NOLV of the UK Borrowers' Eligible Inventory, *plus*

(c) the lower of

(i) 85% of the NOLV of Appraised Eligible Rolling Stock Collateral of any UK Borrower (for the avoidance of doubt, this calculation shall not include any Eligible Rolling Stock Collateral constituting Interim Eligible Rolling Stock Collateral on such date of determination); and

(ii) 100% of the net book value of aggregate Appraised Eligible Rolling Stock Collateral of any UK Borrower (for the avoidance of doubt, this calculation shall not include any Eligible Rolling Stock Collateral constituting Interim Eligible Rolling Stock Collateral on such date of determination), *plus*

(d) *the lower of*

(i) 80% of the hard costs of Interim Eligible Rolling Stock Collateral of any UK Borrower (for the avoidance of doubt, this calculation shall not include any Eligible Rolling Stock Collateral constituting Appraised Eligible Rolling Stock Collateral on such date of determination), and

(ii) $5,000,000, *minus*

(e) the aggregate amount of Reserves, if any, established by Agent under Section 2.1(e) of this Agreement.

"UK Blocked Accounts" means the "Blocked Accounts" as defined in the UK Security Documents.

"UK Collateral" means the Collateral pledged to UK Security Agent, for the benefit of the Secured Parties and any other holder of any Obligations pursuant to the UK Security Documents.

"UK Designated Account" means the Deposit Account of UK Administrative Borrower identified on Schedule D-1 to this Agreement (or such other Deposit Account of UK Administrative Borrower located at UK Designated Account Bank that has been designated as such, in writing, by UK Borrowers to Agent).

"UK Designated Account Bank" has the meaning specified therefor in Schedule D-1 to this Agreement (or such other bank that is located within the United Kingdom that has been designated as such, in writing, by UK Borrowers to Agent).

"UK Dilution" means, as of any date of determination, a percentage, based upon the experience of the immediately prior 12 months, that is the result of *dividing* the Dollar amount of (a) bad debt write-downs, discounts, advertising allowances, credits, or other dilutive items with respect to the UK Borrowers' Accounts during such period, *by* (b) the UK Borrowers' billings with respect to the relevant Accounts during such period.

"UK Dilution Reserve" means, as of any date of determination, an amount sufficient to reduce the advance rate against the applicable Eligible Accounts of the UK Borrowers by 1 percentage point for each percentage point by which UK Dilution is in excess of 5%.

"UK Eligible Accounts" means the Eligible Accounts owned by a UK Borrower that comply with each of the representations and warranties respecting Eligible Accounts and UK Eligible Accounts made in the Loan Documents.

"UK Equipment" means all fixed and moveable plant, machinery, tools, vehicles, computers and office and other equipment and the benefit of all related authorizations, agreements and warranties but excluding any stock in trade.

"UK Guarantee and Debenture" means the English law governed guarantee and debenture dated as of the date hereof, in form and substance satisfactory to Agent, executed and delivered by each UK Loan Party and UK Security Agent.

"UK Guarantor" means (a) each UK Borrower (other than with respect to its own obligations), (b) any Person that is a "Guarantor" under the UK Guarantee and Debenture, and (c) each Person organized under the laws of England and Wales that becomes a guarantor after the Closing Date pursuant to Section 5.12 of this Agreement.

"UK Hedge Obligations" means any and all obligations or liabilities, whether absolute or contingent, due or to become due, now existing or hereafter arising, of each UK Loan Party arising under, owing pursuant to, or existing in respect of Hedge Agreements entered into with one or more of the Hedge Providers.

"UK Issuing Bank" means any UK Revolving Lender which issues a Letter of Credit (which includes the giving of any indemnity or guarantee to any third party issuer of any underlying instrument) or any other lenders that at the request of the UK Administrative Borrowers and with consent of Agent agrees in such lender's sole discretion, to become a UK Issuing Bank for the purposes of this Agreement.

"UK ITA" means the United Kingdom Income Tax Act 2007.

"UK Lender" means a Lender with a UK Revolver Commitment or that is holding outstanding UK Revolver Usage.

"UK Letter of Credit Usage" means, as of any date of determination, the sum of (a) the aggregate undrawn amount of all outstanding Letters of Credit issued for the account of UK Borrowers, *plus* (b) the aggregate amount of outstanding reimbursement obligations with respect to Letters of Credit issued for the account of UK Borrowers which remain unreimbursed or which have not been paid through a UK Revolving Loan.

"UK Loan Account" has the meaning specified therefor in Section 2.9.

"UK Loan Party" means any UK Borrower or any UK Guarantor.

"UK Maximum Revolver Amount" means the Dollar Equivalent of $60,000,000, as such amount may be increased by the amount of any Incremental Revolving Commitments made in accordance with Section 2.14 of this Agreement.

"UK Non-Bank Lender" means:

(a) a Lender (which falls within clause (a)(ii) of the definition of Qualifying Lender) which is a party to this Agreement and which has provided a Tax Confirmation to Agent; and

(b) where a Lender becomes a party after the Closing Date, an Assignee which gives a Tax Confirmation in the Assignment and Acceptance which it executes on becoming a party.

"UK Obligations" means (a) all loans (including the UK Revolving Loans) debts, principal, interest (including any interest that accrues after the commencement of an Insolvency Proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any such Insolvency Proceeding), reimbursement or indemnification obligations with respect to Letters of Credit issued for the account of UK Borrowers (irrespective of whether contingent), premiums, liabilities (including all amounts charged to the UK Loan Account pursuant to this Agreement), obligations (including indemnification obligations) of any UK Loan Party, fees (including the fees provided for in the Fee Letter) of any UK Loan Party, Lender Group Expenses (including any fees or expenses that accrue after the commencement of an Insolvency Proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any such Insolvency Proceeding) of any UK Loan Party, guaranties of any UK Loan Party, and all covenants and duties of any other kind and description owing by any UK Loan Party arising out of, under, pursuant to, in connection with, or evidenced by this Agreement or any of the other Loan Documents and irrespective of whether for the payment of money, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, and including all interest not paid when due and all other expenses or other amounts that any UK Loan Party is required to pay or reimburse by the Loan Documents or by law or otherwise in connection with the Loan Documents, and (b) all UK Bank Product Obligations. Without limiting the generality of the foregoing, the UK Obligations under the Loan Documents include the obligation to pay (i) the principal of the UK Revolving Loans, (ii) interest accrued on the UK Revolving Loans, (iii) the amount necessary to reimburse Issuing Bank for amounts paid or payable pursuant to Letters of Credit issued for the account of UK Borrowers, (iv) Letter of Credit commissions, fees (including fronting fees) and charges, (v) Lender Group Expenses of any UK Loan Party, (vi) fees payable by any UK Loan Party under this Agreement or any of the other Loan Documents, (vii) indemnities and other amounts payable by any UK Loan Party under or in connection with any Loan Document, and (viii) any guaranties by any US Loan Party of all or any part of the UK Obligations. Any reference in this Agreement or in the Loan Documents to the UK Obligations shall include all or any portion thereof and any extensions, modifications, renewals, or alterations thereof, both prior and subsequent to any Insolvency Proceeding.

"UK Priority Payables Reserve" means on any date of determination, a reserve in such amount as Agent may determine in its Permitted Discretion which reflects the full amount of any liabilities or amounts which (by virtue of any Liens or any statutory provision) rank in priority to Agent's Liens on the Accounts or personal property of a UK Borrower or for amounts which may represent costs relating to the enforcement of such Liens including, without limitation, (a) reserves with respect to carrier's liens and workman's liens, (b) the expenses and liabilities incurred by any administrator (or other restructuring or insolvency officer) and any remuneration of such administrator (or other restructuring or insolvency officer), (c) the amounts in the future, currently or past due and not contributed, remitted or paid in respect of any occupational pension schemes and state scheme premiums, together with any charges which are entitled to be levied by a Governmental Authority as a result of any default in payment obligations in respect of any UK pension plan, (d) any preferential debt due and not paid under any legislation relating to employee compensation or to employment insurance and all amounts deducted or withheld and not paid and remitted when due under Section 175 and 386 of the Insolvency Act 1986 (UK) or any similar legislation related to taxes and any amount which could reasonably be expected to be required to be made available by a UK Loan Party (or any insolvency officer) to unsecured creditors under Section 176A of the Insolvency Act 1986 (UK).

"UK Reserves" means (a) Reserves established and/or adjusted from time to time in connection with or related to any UK Loan Party in accordance with the terms of this Agreement and (b) UK Bank Product Reserves.

"UK Revolver Commitment" means, with respect to each Revolving Lender, its UK Revolver Commitment, and, with respect to all Revolving Lenders, their UK Revolver Commitments, in each case as such Dollar Equivalent amounts are set forth beside such Revolving Lender's name under the applicable heading on Schedule C-1 or in the Assignment and Acceptance pursuant to which such Revolving Lender became a Revolving Lender under this Agreement, as such amounts may be reduced or increased from time to time pursuant to assignments made in accordance with the provisions of Section 13.1.

"UK Revolver Usage" means with respect to UK Borrowers, as of any date of determination, (a) the Dollar Equivalent of the amount of outstanding UK Revolving Loans *plus* (b) the Dollar Equivalent of the amount of the UK Letter of Credit Usage.

"UK Revolving Lender" means a Lender that has a UK Revolver Commitment or that has an outstanding UK Revolving Loan.

"UK Revolving Loan Exposure" means, with respect to any Revolving Lender, as of any date of determination (a) prior to the termination of the UK Revolver Commitments, the amount of such Revolving Lender's UK Revolver Commitment, and (b) after the termination of the UK Revolver Commitments, the aggregate outstanding principal amount of the UK Revolving Loans of such Revolving Lender.

"UK Revolving Loans" has the meaning specified therefor in Section 2.1(c).

"UK Security Agent" means Wells Fargo Capital Finance (UK) Limited.

"UK Security Documents" means the UK Guarantee and Debenture and each other pledge or security agreement or debenture governed by English law and entered into by and among one or more Loan Parties and UK Security Agent, for the benefit of the Secured Parties and any other holder of any Obligations, as may be amended, restated, supplemented or otherwise modified from time to time.

"United States" or "US" means the United States of America.

"Unrestricted Subsidiary" means any subsidiary of the Borrowers designated by the Borrowers as an Unrestricted Subsidiary after the Closing Date pursuant to Section 5.11.

"Unused Line Fee" has the meaning specified therefor in Section 2.10(b) of this Agreement.

"US Administrative Borrower" has the meaning specified therefor in Section 17.14(a).

"US Authorized Person" means any one of the individuals identified as an officer of US Administrative Borrower on Schedule A-2, or any other officer of US Administrative Borrower identified by US Administrative Borrower as an authorized person with respect to US Administrative Borrower and authenticated through Agent's electronic platform or portal in accordance with its procedures for such authentication.

"US Availability" means, as of any date of determination, the aggregate Dollar Equivalent amount that US Borrowers are entitled to borrow as US Revolving Loans under Section 2.1(a) (after giving effect to the then outstanding US Revolver Usage and all US Reserves imposed in accordance with the terms hereof and then applicable thereunder).

"US Bank Product" means any one or more of the following financial products or accommodations extended to any US Loan Party by a Bank Product Provider: (a) credit cards (including commercial cards (including so-called "purchase cards", "procurement cards" or "p-cards")), (b) credit card processing services, (c) debit cards, (d) stored value cards, (e) Cash Management Services, or (f) transactions under Hedge Agreements.

"US Bank Product Agreements" means those agreements entered into from time to time by any US Loan Party with a Bank Product Provider in connection with the obtaining of any of the US Bank Products.

"US Bank Product Collateralization" means providing cash collateral (pursuant to documentation reasonably satisfactory to Agent) to be held by Agent for the benefit of the Bank Product Providers (other than the Hedge Providers) in an amount determined by Agent as sufficient to satisfy the reasonably estimated credit exposure with respect to the then existing US Bank Product Obligations (other than US Hedge Obligations).

"US Bank Product Obligations" means (a) all obligations, liabilities, reimbursement obligations, fees, or expenses owing by any US Loan Party to any Bank Product Provider pursuant to or evidenced by a US Bank Product Agreement and irrespective of whether for the payment of money, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, (b) all US Hedge Obligations, and (c) all amounts that Agent or any Lender is obligated to pay to a Bank Product Provider as a result of Agent or such Lender purchasing participations from, or executing guarantees or indemnities or reimbursement obligations to, a Bank Product Provider with respect to the US Bank Products provided by such Bank Product Provider to a US Loan Party.

"US Bank Product Reserves" means, as of any date of determination, those reserves that Agent deems necessary or appropriate to establish (based upon the Bank Product Providers' determination of the liabilities and obligations of each US Loan Party in respect of US Bank Product Obligations) in respect of US Bank Products then provided or outstanding.

"US Borrower" and "US Borrowers" have the respective meanings assigned in the Preamble hereto.

"US Borrowing" means a borrowing consisting of US Revolving Loans made on the same day by the Lenders (or Agent on behalf thereof), or by Swing Lender in the case of a Swing Loan, or by Agent in the case of an Extraordinary Advance.

"US Borrowing Base" means, as of any date of determination, the result of:

(a) 85% of the amount of Eligible Accounts of any US Borrower, less the amount, if any, of the Dilution Reserve, minus

(b) the aggregate amount of any Reserves, if any, established by Agent under Section 2.1(e) of this Agreement.

"US Cash Dominion Period" means the period (a) commencing on the date that (i) Excess Availability at any time is less than the greater of (A) 12.5% of the Line Cap or (B) $5,000,000 for a period of three (3) consecutive Business Days or (ii) a Specified Event of Default shall exist or have occurred and be continuing and (b) continuing until (i) to the extent that the US Cash Dominion Period has occurred due to clause (a)(i) of this definition during each of the preceding 30 consecutive days, Excess Availability has been at least equal to greater of (x) 12.5% of the Line Cap or (y) $5,000,000 or (ii) to the extent that the US Cash Dominion Period has occurred due to clause (a)(ii) of this definition, until such Specified Event of Default shall have been waived by the Lenders in accordance with the terms of this Agreement.

"US Designated Account" means the Deposit Account of US Administrative Borrower identified on Schedule D-1 to this Agreement (or such other Deposit Account of US Administrative Borrower located at US Designated Account Bank that has been designated as such, in writing, by US Borrowers to Agent).

"US Designated Account Bank" has the meaning specified therefor in Schedule D-1 to this Agreement (or such other bank that is located within the United States that has been designated as such, in writing, by US Borrowers to Agent).

"US Dilution" means, as of any date of determination, a percentage, based upon the experience of the immediately prior 12 months, that is the result of *dividing* the Dollar amount of (a) bad debt write-downs, discounts, advertising allowances, credits, or other dilutive items with respect to the US Borrowers' Accounts during such period, *by* (b) the US Borrowers' billings with respect to the relevant Accounts during such period.

"US Dilution Reserve" means, as of any date of determination, an amount sufficient to reduce the advance rate against the applicable Eligible Accounts of the US Borrowers by 1 percentage point for each percentage point by which US Dilution is in excess of 5%.

"US Eligible Accounts" means the Eligible Accounts owned by a US Borrower that comply with each of the representations and warranties respecting Eligible Accounts and US Eligible Accounts made in the Loan Documents.

"US Guarantor" means (a) each US Borrower (other than with respect to its own obligations), (b) each Person organized under the laws of a jurisdiction within the United States that guaranties all or a portion of the Obligations, including any Person that is a "Guarantor" under the US Guaranty and Security Agreement, and (c) each other Person organized under the laws of a jurisdiction within the United States that becomes a guarantor after the Closing Date pursuant to Section 5.12 of this Agreement.

"US Guaranty and Security Agreement" means a guaranty and security agreement, dated as of even date with this Agreement, in form and substance reasonably satisfactory to Agent, executed and delivered by each of the US Loan Parties to Agent.

"US Hedge Obligations" means any and all obligations or liabilities, whether absolute or contingent, due or to become due, now existing or hereafter arising, of each US Loan Party arising under, owing pursuant to, or existing in respect of Hedge Agreements entered into with one or more of the Hedge Providers.

"US Issuing Bank" means Wells Fargo or any other Lender that, at the request of Borrowers and with the consent of Agent, agrees, in such Lender's sole discretion, to become an Issuing Bank for the purpose of issuing Letters of Credit pursuant to Section 2.11 of this Agreement, and Issuing Bank shall be a Lender.

"US Lender" means a Lender with a US Revolver Commitment or that is holding outstanding US Revolver Usage.

"US Letter of Credit Usage" means, as of any date of determination, the sum of (a) the aggregate undrawn amount of all outstanding Letters of Credit issued for the account of US Borrowers, plus (b) the aggregate amount of outstanding reimbursement obligations with respect to Letters of Credit issued for the account of US Borrowers which remain unreimbursed or which have not been paid through a US Revolving Loan.

"US Loan Account" has the meaning specified therefor in Section 2.9.

"US Loan Party" means any US Borrower or any US Guarantor.

"US Maximum Revolver Amount" means $60,000,000, as such amount may be increased by the amount of any Incremental Revolving Commitments made in accordance with Section 2.16 of this Agreement.

"US Obligations" means (a) all loans (including the US Revolving Loans (inclusive of Extraordinary Advances and Swing Loans)), debts, principal, interest (including any interest that accrues after the commencement of an Insolvency Proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any such Insolvency Proceeding), reimbursement or indemnification obligations with respect to Letters of Credit issued for the account of US Borrowers (irrespective of whether contingent), premiums, liabilities (including all amounts charged to the US Loan Account pursuant to this Agreement), obligations (including indemnification obligations) of any US Loan Party, fees (including the fees provided for in the Fee Letter) of any US Loan Party, Lender Group Expenses (including any fees or expenses that accrue after the commencement of an Insolvency Proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any such Insolvency Proceeding) of any US Loan Party, guaranties, and all covenants and duties of any other kind and description owing by any US Loan Party arising out of, under, pursuant to, in connection with, or evidenced by this Agreement or any of the other Loan Documents and irrespective of whether for the payment of money, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, and including all interest not paid when due and all other expenses or other amounts that any US Loan Party is required to pay or reimburse by the Loan Documents or by law or otherwise in connection with the Loan Documents, and (b) all US Bank Product Obligations; provided, that the US Obligations of any US Loan Party shall not include such US Loan Party's Excluded Swap Obligations. Without limiting the generality of the foregoing, the US Obligations under the Loan Documents include the obligation to pay (i) the principal of the US Revolving Loans, (ii) interest accrued on the US Revolving Loans, (iii) the amount necessary to reimburse Issuing Bank for amounts paid or payable pursuant to Letters of Credit issued for the account of US Borrowers, (iv) Letter of Credit commissions, fees (including fronting fees) and charges, (v) Lender Group Expenses of any US Loan Party, (vi) fees payable by any US Loan Party under this Agreement or any of the other Loan Documents, and (vii) indemnities and other amounts payable by any US Loan Party under or in connection with any Loan Document. Any reference in this Agreement or in the Loan Documents to the US Obligations shall include all or any portion thereof and any extensions, modifications, renewals, or alterations thereof, both prior and subsequent to any Insolvency Proceeding.

"US Person" means any Person that is a "United States Person" as defined in Section 7701(a)(30) of the IRC.

"US Reserves" means (a) Reserves established and/or adjusted from time to time in connection with or related to any US Loan Party in accordance with the terms of this Agreement and (b) US Bank Product Reserves.

"US Revolver Commitment" means, with respect to each Revolving Lender, its US Revolver Commitment, and, with respect to all Revolving Lenders, their US Revolver Commitments, in each case as such Dollar amounts are set forth beside such Revolving Lender's name under the applicable heading on Schedule C-1 to this Agreement or in the Assignment and Acceptance pursuant to which such Revolving Lender became a Revolving Lender under this Agreement, as such amounts may be reduced or increased from time to time pursuant to assignments made in accordance with the provisions of Section 13.1.

"US Revolver Usage" means, as of any date of determination, the sum of (a) the amount of outstanding US Revolving Loans (inclusive of Swing Loans and Protective Advances), *plus* (b) the amount of the US Letter of Credit Usage.

"US Revolving Lender" means a Lender that has a US Revolver Commitment or that has an outstanding US Revolving Loan.

"US Revolving Loan Exposure" means, with respect to any Revolving Lender, as of any date of determination (a) prior to the termination of the US Revolver Commitments, the amount of such Revolving Lender's US Revolver Commitment, and (b) after the termination of the Commitments, the aggregate outstanding principal amount of the US Revolving Loans of such Revolving Lender.

"US Revolving Loans" has the meaning specified therefor in Section 2.1(b).

"US Security Documents" means the US Guaranty and Security Agreement, the Controlled Account Agreements, each Copyright Security Agreement, each Patent Security Agreement, each Trademark Security Agreement, each other pledge or security agreement entered into by and among one or more Loan Parties and Agent, for the benefit of the Secured Parties and any other holder of any Obligations, in each case as may be amended, restated, supplemented or otherwise modified from time to time.

"VAT" means:

(a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and

(b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

"Vehicle Sales/Use Taxes Liabilities" means sales and/or use taxes which may potentially become due and payable, but which have not been paid, by a Borrower with respect to Rolling Stock or related pumping Equipment relocated by a Borrower into Arkansas, Kansas, Missouri or Texas from another State (other than Arkansas, Kansas, Missouri or Texas), which such Rolling Stock or Equipment is subject to a Certificate of Title in a State other than Arkansas, Kansas, Missouri or Texas.

"Vehicle Sales/Use Taxes Reserves" means, as of any date of determination, reserves that Agent deems necessary or appropriate, in its Permitted Discretion and subject to Section 2.1(e), to establish and maintain with respect to the Vehicle Sales/Use Taxes Liabilities; provided, that such reserves shall not exceed $500,000 in the aggregate at any one time.

"Voidable Transfer" has the meaning specified therefor in Section 17.8 of this Agreement.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (b) the then outstanding principal amount of such Indebtedness.

"Wells Fargo" means Wells Fargo Bank, National Association, a national banking association.

"Wholly-Owned Subsidiary" of any Person means a subsidiary of such Person, 100% of the Capital Stock of which (other than directors' qualifying shares or shares required by Requirements of Law to be owned by a resident of the relevant jurisdiction) shall be owned by such Person or by one or more Wholly-Owned Subsidiaries of such Person.

"Withholding Agent" means any Loan Party and Agent.

"Write-Down and Conversion Powers" means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

Schedule 3.1

The obligation of each Lender to make its initial extension of credit provided for in the Agreement is subject to the fulfillment, to the satisfaction of each Lender (the making of such initial extension of credit by any Lender being conclusively deemed to be its satisfaction or waiver of the following), of each of the following conditions precedent, subject to the last paragraph of this Schedule 3.1:

1. Agent shall have received each of the following documents duly executed and delivered, and each such document shall be in full force and effect:

    (a) this Agreement,

    (b) a completed Borrowing Base Certificate,

    (c) a Solvency Certificate,

    (d) the Intercreditor Agreement,

    (e) the Disbursement Letter,

    (f) the US Guaranty and Security Agreement,

    (g) the UK Guarantee and Debenture,

    (h) the Patent Security Agreement,

    (i) the Trademark Security Agreement,

    (j) a completed Perfection Certificate for each of the initial Loan Parties.

2. The Agent shall have received (i) a certificate of each Loan Party, dated the Closing Date and executed by a secretary, assistant secretary or other Responsible Officer thereof, which shall (ii) certify that attached thereto are (x) a true and complete copy of the certificate or articles of incorporation, formation or organization of such Loan Party which in the case of a US Loan Party shall be certified by the relevant authority of its jurisdiction of organization, which certificate or articles of incorporation, formation or organization of such Loan Party attached thereto have not been amended (except as attached thereto) since the date reflected thereon, (y) a true and correct copy of the by-laws or operating, management, partnership or similar agreement of such Loan Party, together with all amendments thereto as of the Closing Date and such by-laws or operating, management, partnership or similar agreement are in full force and effect and (z) a true and complete copy of the resolutions or written consent, as applicable, of its board of directors, board of managers, sole member or other applicable governing body authorizing the execution, delivery and performance of the Loan Documents, and, in the case of the Borrowers, the borrowings and other obligations thereunder, which resolutions or consent have not been modified, rescinded or amended (other than as attached thereto) and are in full force and effect, and (iii) identify by name and title and bear the signatures of the officers, managers, directors or authorized signatories of such Loan Party authorized to sign the Loan Documents to which such Loan Party is a party on the Closing Date and (iv) a good standing (or equivalent) certificate as of a recent date for such US Loan Party from the relevant authority of its jurisdiction of organization.

3. Agent shall have received a customary written opinion of (i) Winston & Strawn LLP, as U.S. counsel to the Loan Parties, and (ii) Holland & Hart LLP, as local Colorado counsel to the U.S. Borrowers;

4. The (i) Specified Acquisition Agreement Representations shall be true and correct to the extent required by the terms of the definition thereof and (ii) the Specified Representations shall be true and correct in all material respects on and as of the Closing Date; provided that (A) in the case of any Specified Representation which expressly relates to a given date or period, such representation and warranty shall be true and correct in all material respects as of the respective date or for the respective period, as the case may be and (B) if any Specified Representation is qualified by or subject to a "material adverse effect", "material adverse change" or similar term or qualification, (1) the definition thereof shall be the definition of "Material Adverse Effect" for purposes of the making or deemed making of such Specified Representation on, or as of, the Closing Date (or any date prior thereto) and (2) such Specified Representation shall be true and correct in all respects.

5. The Equity Contributions shall have been consummated, and the proceeds shall have been used to pay a portion of the cash purchase price for the Concrete Pumping Acquisition.

6. Substantially concurrently with the effectiveness of the Commitments hereunder, the Concrete Pumping Acquisition shall be consummated in accordance with the terms of the Concrete Pumping Acquisition Agreement.

7. Prior to or substantially concurrently with the effectiveness of the Commitments hereunder, all existing third party debt for borrowed money of the Holdings and its subsidiaries, other than (A) Indebtedness outstanding under the Term Loan Facility, (B) Indebtedness permitted to remain outstanding after the Closing Date under the Concrete Pumping Acquisition Agreement and (C) Indebtedness described on Schedule 6.1 hereto, will be repaid, redeemed, defeased, discharged, refinanced or terminated (or irrevocable notice for the repayment or redemption thereof will be given to the extent accompanied by any prepayments or deposits required to defease, terminate and satisfy in full the obligations under any related indentures or notes) and all commitments thereunder shall have been terminated (the actions described in this paragraph 7 are hereinafter collectively referred to as the "Target Refinancing").

8. All "Loan Documents" (as defined in the Term Loan Facility Agreement) shall have been executed and delivered by the parties thereto and shall be effective to the extent required by the Term Loan Facility Agreement as of the Closing Date.

9. Except as otherwise contemplated by the Concrete Pumping Acquisition Agreement, since September 7, 2018, there shall not have occurred a Material Adverse Effect (as defined in the Concrete Pumping Acquisition Agreement as in effect on September 7, 2018) on Holdings.

10. The Lead Arranger shall have received (which, in the case of clauses (a) and (b), may be delivered electronically on EDGAR at www.sec.gov via a link provided by the Borrowers) (a) an audited consolidated balance sheet and audited consolidated statements of income, stockholders' equity and cash flows of the Borrowers as of the end of and for the fiscal years ended on or about October 31, 2015, October 31, 2016 and October 31, 2017, (b) unaudited consolidated balance sheets and related statements of income and cash flows of the Borrowers for the fiscal quarters ended on or about April 30, 2018 and July 31, 2018 and (c) a pro forma consolidated balance sheet and related pro forma statement of income of the Borrowers as of the last day of and for the four fiscal quarters ended on July 31, 2018, prepared after giving effect to the Transactions as if the Transactions had occurred as of such date (in the case of such balance sheet) or at the beginning of such period (in the case of the statement of income); provided, that each such pro forma financial statement shall be prepared in good faith by the Borrowers.

11. Subject to the provisions of the Intercreditor Agreement, Agent shall have received all filings and recordations that are necessary to perfect the security interests of Agent, on behalf of itself, the members of the Lender Group and the Bank Product Providers, in the Collateral and Agent shall have received evidence reasonably satisfactory to Agent that upon such filings and recordations such security interests constitute valid and perfected first priority Liens thereon (subject only to specified Permitted Liens that by operation of law have priority).

12. Subject to the provisions of the Intercreditor Agreement, Agent shall have received (a) original stock certificates or other certificates evidencing the Equity Interests pledged pursuant to the US Guaranty and Security Agreement, together with an undated stock (or equivalent) power for each such certificate duly executed in blank by the registered owner thereof and (b) each original promissory note pledged pursuant to the US Guaranty and Security Agreement, if any, together with an undated endorsement for each such promissory note duly executed in blank by the holder thereof;

13. All (a) fees required to be paid on the Closing Date pursuant to the Fee Letter and (b) expenses required to be paid on the Closing Date pursuant to the Commitment Letter (in the case of this clause (b), to the extent invoiced at least 3 Business Days prior to the Closing Date or such later date to which the Borrowers may agree), shall, in each case, have been paid (which amounts may be offset against the proceeds of any Loans deemed made on the Closing Date pursuant to the Disbursement Letter).

14. Agent shall have received, at least 3 Business Days prior to the Closing Date, all documentation and other information required by regulatory authorities with respect to the Loan Parties and their senior management and key principals under applicable "know your customer" and anti-money laundering rules and regulations, including, without limitation, the Patriot Act (including, without limitation, with respect to each Loan Party or Subsidiary thereof that qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, a Beneficial Ownership Certification in relation to such Loan Party or such Subsidiary), that has been reasonably requested by Agent at least ten (10) Business Days in advance of the Closing Date; provided that Agent shall have received all documentation and other information required under this Item #14 of Schedule 3.1 for any new Loan Party formed or senior management or key principal appointed within ten (10) Business Days prior to the Closing Date.

    Notwithstanding the foregoing, to the extent any Collateral (including the creation or perfection of any Lien in favor of Agent) is not or cannot be provided on the Closing Date (other than (i) the perfection of a Lien on Collateral that is of the type where a Lien on such Collateral may be perfected solely by the filing of a financing statement under the Code or by filing form MR01 with the Registrar of Companies House in respect of any Loan Party incorporated in England and Wales and (ii) a pledge or charge of the Equity Interests of the Borrowers and the Subsidiary Guarantors with respect to which a lien may be perfected on the Closing Date by the delivery of a stock or equivalent certificate (together with a stock power or similar instrument of transfer endorsed in blank for the relevant certificate) to the extent such certificates are delivered to Concrete Merger Sub under the Concrete Pumping Acquisition Agreement at least two Business Days prior to the Closing Date (after the Loan Parties' use of commercially reasonable efforts to obtain such certificates)), after the Loan Parties' use of commercially reasonable efforts to do so without undue burden or expense, then the provision and/or perfection of such Collateral shall not constitute a condition precedent to the availability or initial funding of the Loans (or other extensions of credit) on the Closing Date but may instead be delivered and/or perfected within 90 days (or such longer period as Agent may reasonably agree) after the Closing Date pursuant to arrangements to be mutually agreed by the Administrative Borrower and Agent, each acting reasonably).

Exhibit 10.31

EXECUTION VERSION

US GUARANTY AND SECURITY AGREEMENT

This US GUARANTY AND SECURITY AGREEMENT (this "Agreement"), dated as of December 6, 2018, among the Persons listed on the signature pages hereof as "Grantors" and those additional entities that hereafter become parties hereto by executing the form of Joinder attached hereto as Annex 1 (each, a "Grantor" and collectively, the "Grantors"), and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association ("Wells Fargo"), in its capacity as administrative agent for each member of the Lender Group and the Bank Product Providers (in such capacity, together with its successors and assigns in such capacity, "Agent").

WITNESSETH:

WHEREAS, pursuant to that certain Credit Agreement, of even date herewith (as amended, restated, supplemented, or otherwise modified from time to time, the "Credit Agreement"), by and among **INDUSTREA ACQUISITION CORP.** , a Delaware corporation, **CONCRETE PUMPING HOLDINGS ACQUISITION CORP.** (to be renamed Concrete Pumping Holdings, Inc. upon consummation of the Concrete Pumping Acquisition (as defined in the Credit Agreement), a Delaware corporation, **CONCRETE PUMPING INTERMEDIATE ACQUISITION CORP.** , a Delaware corporation, **CONCRETE PUMPING MERGER SUB INC.**, a Delaware corporation ("Concrete Merger Sub"), which upon the consummation of the Concrete Pumping Acquisition will be merged with and into the existing **CONCRETE PUMPING HOLDINGS, INC.**, a Delaware corporation (which is to be renamed Brundage-Bone Concrete Pumping Holdings Inc. upon consummation of the Concrete Pumping Acquisition) (the "Target"), **BRUNDAGE-BONE CONCRETE PUMPING, INC.**, a Colorado corporation ("Brundage Pumping"), and **ECO-PAN, INC.** , a Colorado corporation ("Eco-Pan US"; and together with Concrete Merger Sub, the Target, Brundage Pumping and each other Person that from time to time that becomes party thereto as a US Borrower in accordance with the terms thereof, each a "US Borrower" and collectively the "US Borrowers") , **CAMFAUD CONCRETE PUMPS LIMITED**, a private limited company incorporated and registered under the laws of England and Wales with Company Number 02635232 ("Camfaud Concrete") and **PREMIER CONCRETE PUMPING LIMITED**, a private limited company incorporated and registered under the laws of England and Wales with Company Number 01714938 ("Premier Concrete", and together Camfaud Concrete and together with those additional entities that become parties thereto as "UK Borrowers" in accordance with the terms thereof, each a "UK Borrower", and collectively, the "UK Borrowers"; UK Borrowers and US Borrowers are each hereinafter referred to as a "Borrower", and collectively, the "Borrowers"), the lenders party thereto as "Lenders" (each of such Lenders, together with its successors and assigns, is referred to hereinafter as a "Lender"), Agent, and **WELLS FARGO CAPITAL FINANCE (UK) LIMITED** , a private limited company incorporated and registered under the laws of England a Wales with company numbers 02656007 (in such capacity, together with its successors and assigns in such capacity, "UK Security Agent"), the Lender Group has agreed to make certain financial accommodations available to Borrowers from time to time pursuant to the terms and conditions thereof; and

WHEREAS, Agent has agreed to act as agent for the benefit of the Lender Group and the Bank Product Providers in connection with the transactions contemplated by the Credit Agreement and this Agreement;

WHEREAS, in order to induce the Lender Group to enter into the Credit Agreement and the other Loan Documents and to extend the Loans thereunder, to induce the Bank Product Providers to enter into the Bank Product Agreements, and to induce the Lender Group and the Bank Product Providers to make financial accommodations to Borrowers as provided for in the Credit Agreement, the other Loan Documents and the Bank Product Agreements, (a) each Grantor (other than any Borrower) has agreed to guaranty the Guarantied Obligations, and (b) each Grantor has agreed to grant to Agent, for the benefit of the Lender Group and the Bank Product Providers, a continuing security interest in and to the Collateral in order to secure the prompt and complete payment, observance and performance of, among other things, the Secured Obligations; and

WHEREAS, each Grantor (other than any Borrower) is an Affiliate of each Borrower and, as such, will benefit by virtue of the financial accommodations extended to Borrowers by the Lender Group.

NOW, THEREFORE, for and in consideration of the recitals made above and other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. Definitions; Construction.

(a) All initially capitalized terms used herein (including in the preamble and recitals hereof) without definition shall have the meanings ascribed thereto in the Credit Agreement. Any terms (whether capitalized or lower case) used in this Agreement that are defined in the Code (including, without limitation, Account, Account Debtor, Chattel Paper, Commercial Tort Claims, Deposit Account, Drafts, Documents, Equipment, Farm Products, Fixtures, General Intangibles, Inventory, Investment Property, Instruments, Letters of Credit, Letter of Credit Rights, Promissory Notes, Proceeds, Securities Account and Supporting Obligations) shall be construed and defined as set forth in the Code unless otherwise defined herein or in the Credit Agreement; provided, that to the extent that the Code is used to define any term used herein and if such term is defined differently in different Articles of the Code, the definition of such term contained in Article 9 of the Code shall govern. In addition to those terms defined elsewhere in this Agreement, as used in this Agreement, the following terms shall have the following meanings:

(i) "Acquisition Documents" means the agreements, instruments and documents evidencing, or entered into in connection with, an Acquisition (including a Permitted Acquisition) by a Grantor.

(ii) "Activation Instruction" has the meaning specified therefor in Section 7(k) hereof.

(iii) "Agent" has the meaning specified therefor in the preamble to this Agreement.

(iv) "Agreement" has the meaning specified therefor in the preamble to this Agreement.

(v) "Books" means books and records (including each Grantor's Records indicating, summarizing, or evidencing such Grantor's assets (including the Collateral) or liabilities, each Grantor's Records relating to such Grantor's business operations or financial condition, and each Grantor's goods or General Intangibles related to such information).

(vi) "Borrower" and "Borrowers" have the respective meanings specified therefor in the recitals to this Agreement.

(vii) "Cash Dominion Event" means the occurrence of either of the following: (A) the occurrence and continuance of any Specified Event of Default, or (B) Excess Availability is less than the greater of (x) 12.5% of the Line Cap, and (y) $5,000,000 for 3 consecutive Business Days.

(viii) "Cash Dominion Period" means the period commencing after the occurrence of a Cash Dominion Event and continuing until the date when (A) no Specified Event of Default shall exist and be continuing, and (B) Excess Availability is greater than the greater of 12.5% of the Line Cap, and (y) $5,000,000 for 30 consecutive calendar days.

(ix) "Chattel Paper" means chattel paper (as that term is defined in the Code), and includes tangible chattel paper and electronic chattel paper.

(x) "Code" means the New York Uniform Commercial Code, as in effect from time to time; provided, however, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection, priority, or remedies with respect to Agent's Lien on any Collateral is governed by the Uniform Commercial Code as enacted and in effect in a jurisdiction other than the State of New York, the term "Code" shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority, or remedies.

(xi) "Collateral" has the meaning specified therefor in Section 3 hereof.

(xii) "Collection Account" means a Deposit Account of a Grantor which is used exclusively for deposits of collections and proceeds of Collateral and not as a disbursement or operating account upon which checks or other drafts may be drawn.

(xiii) "Commercial Tort Claims" means commercial tort claims (as that term is defined in the Code), and includes those commercial tort claims listed on Schedule 1.

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

(xv) "Controlled Account" has the meaning specified therefor in Section 7(k) hereof.

(xvi) "Controlled Account Agreements" means those certain cash management agreements, in form and substance reasonably satisfactory to Agent, each of which is executed and delivered by a Grantor, Agent, and one of the Controlled Account Banks.

(xvii) "Controlled Account Bank" has the meaning specified therefor in Section 7(k) hereof.

(xviii) "Copyrights" means any and all rights in any works of authorship, including (A) copyrights and moral rights, (B) copyright registrations and recordings thereof and all applications in connection therewith including those listed on Schedule 2, (C) income, license fees, royalties, damages, and payments now and hereafter due or payable under and with respect thereto, including payments under all licenses entered into in connection therewith and damages and payments for past, present, or future infringements thereof, (D) the right to sue for past, present, and future infringements thereof, and (E) all of each Grantor's rights corresponding thereto throughout the world.

(xix) "Copyright Security Agreement" means each Copyright Security Agreement executed and delivered by Grantors, or any of them, and Agent, in substantially the form of Exhibit A.

(xx) "Credit Agreement" has the meaning specified therefor in the recitals to this Agreement.

(xxi) "Excluded Accounts" means (A) Deposit Accounts and Securities Accounts with an aggregate amount on deposit therein of not more than $1,500,000 at any one time for all such Deposit Accounts or Securities Accounts, or (B) Deposit Accounts solely and specifically used for payroll and other employee wage and benefit accounts, tax accounts, including sales tax accounts, escrow accounts and/or trust accounts used exclusively for the foregoing.

(xxii) "Excluded Asset" means each of the following:

(1) any asset the grant or perfection of a security interest in which would (i) be prohibited by enforceable anti-assignment provisions set forth in any contract that is permitted or otherwise not prohibited by the terms of this Agreement, (ii) violate the terms of any contract relating to such asset that is permitted or otherwise not prohibited by the terms of this Agreement or (iii) trigger termination of any contract relating to such asset that is permitted or otherwise not prohibited by the terms of this Agreement pursuant to any "change of control" or similar provision; it being understood that the term "Excluded Asset" shall not include proceeds or receivables arising out of any contract described in this clause (1) to the extent that the assignment of such proceeds or receivables is expressly deemed to be effective under the Code or other applicable Requirements of Law notwithstanding the relevant prohibition, violation or termination right,

(2) the Capital Stock of any (i) Restricted Subsidiary that is subject to regulation as an insurance company (or any Restricted Subsidiary thereof), (ii) Unrestricted Subsidiary, and/or (iii) not-for-profit subsidiary, in each case except to the extent that such person is Guarantor or a security interest therein can be perfected by the filing of financing statements without violating or conflicting with any agreement or instrument to which such entity or the Capital Stock thereof are subject,

(3) any intent-to-use (or similar) Trademark application prior to the filing and acceptance of a "Statement of Use", "Amendment to Allege Use" or similar filing with respect thereto, to the extent, if any, that, and solely during the period, if any, in which the grant of a security interest therein may impair the validity or enforceability of such intent-to-use Trademark application under applicable law; provided, that upon submission and acceptance by the PTO of an amendment to allege use pursuant to 15 U.S.C. Section 1060(a) (or any successor provision), such intent-to-use trademark application shall be considered Collateral,

(4) governmental licenses and state or local franchises, charters and authorizations, and any other property and asset, the grant or perfection of a security interest in which would (i) require any governmental consent, approval, license or authorization that has not been obtained (unless such consent, approval, license or authorization has been obtained), (ii) be prohibited by enforceable anti-assignment provisions of applicable Requirements of Law, except, in the case of this clause (ii), to the extent such requirement or prohibition would be rendered ineffective under the Code or other applicable Requirements of Law notwithstanding such requirement or prohibition or (iii) result in material adverse tax consequences to any Grantor as reasonably determined by such US Administrative Borrower (in consultation with the Agent),

(5) any Excluded Real Property,

(6) any interest in any joint venture or non-Wholly-Owned Subsidiary,

(7) any Margin Stock,

(8) any cash or Cash Equivalents maintained in or credited to any Excluded Account,

(9) any asset with respect to which the Agent and the US Administrative Borrower have reasonably determined that the cost, burden, difficulty or consequence (including any effect on the ability of the relevant Grantor to conduct its operations and business in the ordinary course of business) of obtaining or perfecting a security interest therein outweighs the benefit of a security interest to the Agent, Lender Group and Bank Product Providers afforded thereby, which determination is evidenced in writing,

(10) Commercial Tort Claims with an aggregate value (as reasonably estimated by the US Administrative Borrower) of less than $2,500,000,

(11) any lease, license or agreement or any asset subject to a purchase money security interest, Capital Lease or similar arrangement that is, in each case, permitted by the Credit Agreement to the extent that the grant of a security interest therein would violate or invalidate such lease, license or agreement or purchase money, Capital Lease or similar arrangement or trigger a right of termination in favor of any other party thereto after giving effect to the applicable anti-assignment provisions the Code or any other applicable Requirement of Law,

(12) the Capital Stock of (i) any CFC, (ii) any Domestic Subsidiary that has no material assets (held directly or indirectly) other than the Capital Stock or Indebtedness of one or more CFCs, in each case, in excess of 65% of the issued and outstanding voting Capital Stock and 100% of the issued and outstanding non-voting Capital Stock in any such Person,

(13) Letter of Credit Rights with an aggregate value less than $2,500,000 (other than those constituting supporting obligations of other Collateral as to which perfection of the security interest in such other Collateral may be accomplished by the filing of a financing statement), and

(14) except to the extent perfected by filing of a financing statement, any assets located outside the United States or the United Kingdom or assets that require action under the law of any non-U.S. or non-U.K. jurisdiction to create or perfect a security interest in such assets under such non-U.S. or non-U.K. jurisdiction, including any intellectual property registered in any non-U.S. or non-U.K. jurisdiction.

(xxiii) "Excluded Real Property" means any Real Property which is (i) leasehold Real Property or (ii) is not Material Real Property; provided that no Real Property acquired after the Closing Date which constitutes a Material Real Property shall be deemed to be Excluded Real Property.

(xxiv) "Excluded Swap Obligation" means, with respect to any Grantor, any Swap Obligation if, and to the extent that, all or a portion of the guaranty of such Grantor of (including by virtue of the joint and several liability provisions of Section 2.15 of the Credit Agreement with respect to any Grantor that is a Borrower), or the grant by such Grantor of a security interest to secure, such Swap Obligation (or any guaranty thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Grantor's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act and the regulations thereunder at the time the guaranty of such Grantor or the grant of such security interest becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such guaranty or security interest is or becomes illegal.

(xxv) "Foreclosed Grantor" has the meaning specified therefor in Section 2(i)(iv) hereof.

(xxvi) "General Intangibles" means general intangibles (as that term is defined in the Code), and includes payment intangibles, software, contract rights, rights to payment, rights under Hedge Agreements (including the right to receive payment on account of the termination (voluntarily or involuntarily) of such Hedge Agreements), rights arising under common law, statutes, or regulations, choses or things in action, goodwill, Intellectual Property, Intellectual Property Licenses, purchase orders, customer lists, route lists, rights to payment and other rights under Acquisition Documents, rights to payment and other rights under any royalty or licensing agreements, including Intellectual Property Licenses, infringement claims, monies due or recoverable from pension funds, pension plan refunds, pension plan refund claims, insurance premium rebates, tax refunds, and tax refund claims, interests in a partnership or limited liability company which do not constitute a security under Article 8 of the Code, and any other personal property other than Commercial Tort Claims, money, Accounts, Chattel Paper, Deposit Accounts, goods, Investment Property, Negotiable Collateral, and oil, gas, or other minerals before extraction.

(xxvii) "Grantor" and "Grantors" have the respective meanings specified therefor in the preamble to this Agreement.

(xxviii) "Guarantied Obligations" means all of the Obligations (including any Bank Product Obligations) now or hereafter existing, whether for principal, interest (including any interest that accrues after the commencement of an Insolvency Proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any such Insolvency Proceeding), fees (including the fees provided for in the Fee Letter), Lender Group Expenses (including any fees or expenses that accrue after the commencement of an Insolvency Proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any such Insolvency Proceeding), or otherwise, and any and all expenses (including reasonable counsel fees and expenses) incurred by Agent, any other member of the Lender Group, or any Bank Product Provider (or any of them) in enforcing any rights under any of the Loan Documents. Without limiting the generality of the foregoing, Guarantied Obligations shall include all amounts that constitute part of the Guarantied Obligations and would be owed by any Borrower to Agent, any other member of the Lender Group, or any Bank Product Provider but for the fact that they are unenforceable or not allowable, including due to the existence of a bankruptcy, reorganization, other Insolvency Proceeding or similar proceeding involving any Borrower or any Guarantor; provided that, anything to the contrary contained in the foregoing notwithstanding, the Guarantied Obligations shall exclude any Excluded Swap Obligation.

(xxix) "Guarantor" means each Grantor other than any Borrower.

(xxx) "Guaranty" means the guaranty set forth in Section 2 hereof.

(xxxi) "Intellectual Property" means any and all Patents, Copyrights, Trademarks, trade secrets, know-how, inventions (whether or not patentable), algorithms, software programs (including source code and object code), processes, product designs, industrial designs, blueprints, drawings, data, customer lists, URLs and domain names, specifications, documentations, reports, catalogs, literature, and any other forms of technology or proprietary information of any kind, including all rights therein and all applications for registration or registrations thereof.

(xxxii) "Intellectual Property Licenses" means, with respect to any Grantor, (A) any licenses or other similar rights provided to such Grantor in or with respect to Intellectual Property owned or controlled by any other Person, and (B) any licenses or other similar rights provided to any other Person in or with respect to Intellectual Property owned or controlled by such Grantor, in each case, including (x) any software license agreements (other than license agreements for commercially available off-the-shelf software that is generally available to the public which have been licensed to a Grantor pursuant to end-user licenses), (y) the license agreements listed on Schedule 3, and (z) the right to use any of the licenses or other similar rights described in this definition in connection with the enforcement of the Lender Group's rights under the Loan Documents.

(xxxiii) "Investment Property" means (A) any and all investment property, and (B) any and all of the following (regardless of whether classified as investment property under the Code): all Pledged Interests, Pledged Operating Agreements, and Pledged Partnership Agreements.

(xxxiv) "Joinder" means each Joinder to this Agreement executed and delivered by Agent and each of the other parties listed on the signature pages thereto, in substantially the form of Annex 1.

(xxxv) "Lender" and "Lenders" have the respective meanings specified therefor in the recitals to this Agreement.

(xxxvi) "Material Real Property" means (i) on the Closing Date, each Real Property listed on Schedule 13 attached hereto and (ii) any "fee-owned" Real Property acquired by any Grantor after the Closing Date having a fair market value (as reasonably estimated by such Grantor) in excess of $5,000,000 as of the date of acquisition thereof.

(xxxvii) "Negotiable Collateral" means letters of credit, letter-of-credit rights, instruments, promissory notes, drafts and documents (as each such term is defined in the Code).

(xxxviii) "Patents" means patents and patent applications, including (A) the patents and patent applications listed on Schedule 4, (B) all continuations, divisionals, continuations-in-part, re-examinations, reissues, and renewals thereof and improvements thereon, (C) all income, royalties, damages and payments now and hereafter due or payable under and with respect thereto, including payments under all licenses entered into in connection therewith and damages and payments for past, present, or future infringements thereof, (D) the right to sue for past, present, and future infringements thereof, and (E) all of each Grantor's rights corresponding thereto throughout the world.

(xxxix) "Patent Security Agreement" means each Patent Security Agreement executed and delivered by Grantors, or any of them, and Agent, in substantially the form of Exhibit B.

(xl) "Pledged Companies" means each Person listed on Schedule 5 as a "Pledged Company", together with each other Person, all or a portion of whose Equity Interests are acquired or otherwise owned by a Grantor after the Closing Date and is required to be pledged pursuant to Section 5.12 of the Credit Agreement.

(xlii) "Pledged Interests" means all of each Grantor's right. title and interest in and to all of the Equity Interests now owned or hereafter acquired by such Grantor, regardless of class or designation, including in each of the Pledged Companies, and all substitutions therefor and replacements thereof, all proceeds thereof and all rights relating thereto, also including any certificates representing the Equity Interests, the right to receive any certificates representing any of the Equity Interests, all warrants, options, share appreciation rights and other rights, contractual or otherwise, in respect thereof and the right to receive all dividends, distributions of income, profits, surplus, or other compensation by way of income or liquidating distributions, in cash or in kind, and all cash, instruments, and other property from time to time received, receivable, or otherwise distributed in respect of or in addition to, in substitution of, on account of, or in exchange for any or all of the foregoing.

(xliii) "Pledged Interests Addendum" means a Pledged Interests Addendum substantially in the form of Exhibit C.

(xliii) "Pledged Notes" has the meaning specified therefor in Section 6(i) hereof.

(xliv) "Pledged Operating Agreements" means all of each Grantor's rights, powers, and remedies under the limited liability company operating agreements of each of the Pledged Companies that are limited liability companies.

(xlv) "Pledged Partnership Agreements" means all of each Grantor's rights, powers, and remedies under the partnership agreements of each of the Pledged Companies that are partnerships.

(xlvi) "Proceeds" has the meaning specified therefor in Section 3 hereof.

(xlvii) "PTO" means the United States Patent and Trademark Office.

(xlviii) "Qualified ECP Grantor" means, in respect of any Swap Obligation, each Grantor that has total assets exceeding $10,000,000 at the time the relevant guaranty, keepwell, or grant of the relevant security interest becomes effective with respect to such Swap Obligation or such other person as constitutes an "eligible contract participant" under the Commodity Exchange Act or any regulations promulgated thereunder and can cause another person to qualify as an "eligible contract participant" at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

(xlix) "Real Property" means, at any time of determination, all right, title and interest (fee, leasehold or otherwise) of any Grantor in and to real property (including but not limited to land, improvements and fixtures thereon).

(l) "Record" means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

(li) "Rescission" has the meaning specified therefor in Section 7(k) hereof.

(lii) "Secured Obligations" means each and all of the following: (A) all of the present and future obligations of each of the Grantors arising from, or owing under or pursuant to, this Agreement (including the Guaranty), the Credit Agreement, or any of the other Loan Documents, (B) all Bank Product Obligations, and (C) all other Obligations of each Borrower and all other Guarantied Obligations of each Guarantor (including, in the case of each of clauses (A), (B) and (C), Lender Group Expenses and any interest, fees, or expenses that accrue after the filing of an Insolvency Proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any Insolvency Proceeding) ; provided that, anything to the contrary contained in the foregoing notwithstanding, the Secured Obligations shall exclude any Excluded Swap Obligation.

(liii) "Security Interest" has the meaning specified therefor in Section 3 hereof.

(liv) "Supporting Obligations" means supporting obligations (as such term is defined in the Code), and includes letters of credit and guaranties issued in support of Accounts, Chattel Paper, documents, General Intangibles, instruments or Investment Property.

(lv) "Swap Obligation" means, with respect to any Grantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act.

(lvi) "Titled Equipment" means any and all Equipment and Inventory represented (or required to be represented) by a certificate of title (or similar requirement) issued under the law of a State in the United States, including any licensed vehicle, truck or trailer.

(lvii) "Trademarks" means any and all trademarks, trade names, registered trademarks, trademark applications, service marks, registered service marks and service mark applications, including (A) the trade names, registered trademarks, trademark applications, registered service marks and service mark applications listed on Schedule 6, (B) all renewals thereof, (C) all income, royalties, damages and payments now and hereafter due or payable under and with respect thereto, including payments under all licenses entered into in connection therewith and damages and payments for past or future infringements or dilutions thereof, (D) the right to sue for past, present and future infringements and dilutions thereof, (E) the goodwill of each Grantor's business symbolized by the foregoing or connected therewith, and (F) all of each Grantor's rights corresponding thereto throughout the world.

(lviii) "Trademark Security Agreement" means each Trademark Security Agreement executed and delivered by Grantors, or any of them, and Agent, in substantially the form of Exhibit D.

(lix) "URL" means "uniform resource locator," an internet web address.

(b) This Agreement shall be subject to the rules of construction set forth in Section 1.4 of the Credit Agreement, and such rules of construction are incorporated herein by this reference, *mutatis mutandis*.

(c) All of the schedules and exhibits attached to this Agreement shall be deemed incorporated herein by reference.

2. Guaranty.

(a) In recognition of the direct and indirect benefits to be received by Guarantors from the proceeds of the Revolving Loans, the issuance of the Letters of Credit, and the entering into of the Bank Product Agreements and by virtue of the financial accommodations to be made to Borrowers, each of the Guarantors, jointly and severally, hereby unconditionally and irrevocably guarantees as a primary obligor and not merely as a surety the full and prompt payment when due, whether upon maturity, acceleration, or otherwise, of all of the Guarantied Obligations. If any or all of the Obligations constituting Guarantied Obligations becomes due and payable, each of the Guarantors, unconditionally and irrevocably, and without the need for demand, protest, or any other notice or formality, promises to pay such indebtedness to Agent, for the benefit of the Lender Group and the Bank Product Providers, together with any and all expenses (including Lender Group Expenses) that may be incurred by Agent or any other member of the Lender Group or any Bank Product Provider in demanding, enforcing, or collecting any of the Guarantied Obligations (including the enforcement of any collateral for such Guarantied Obligations or any collateral for the obligations of the Guarantors under this Guaranty). If claim is ever made upon Agent or any other member of the Lender Group or any Bank Product Provider for repayment or recovery of any amount or amounts received in payment of or on account of any or all of the Guarantied Obligations and any of Agent or any other member of the Lender Group or any Bank Product Provider repays all or part of said amount by reason of (i) any judgment, decree, or order of any court or administrative body having jurisdiction over such payee or any of its property, or (ii) any settlement or compromise of any such claim effected by such payee with any such claimant (including any Borrower or any Guarantor), then and in each such event, each of the Guarantors agrees that any such judgment, decree, order, settlement, or compromise shall be binding upon the Guarantors, notwithstanding any revocation (or purported revocation) of this Guaranty or other instrument evidencing any liability of any Grantor, and the Guarantors shall be and remain liable to the aforesaid payees hereunder for the amount so repaid or recovered to the same extent as if such amount had never originally been received by any such payee.

(b) Additionally, each of the Guarantors unconditionally and irrevocably guarantees the payment of any and all of the Guarantied Obligations to Agent, for the benefit of the Lender Group and the Bank Product Providers, whether or not due or payable by any Loan Party upon the occurrence of any of the events specified in Section 8.4 or 8.5 of the Credit Agreement, and irrevocably and unconditionally promises to pay such indebtedness to Agent, for the benefit of the Lender Group and the Bank Product Providers, without the requirement of demand, protest, or any other notice or other formality, in lawful money of the United States.

(c) The liability of each of the Guarantors hereunder is primary, absolute, and unconditional, and is independent of any security for or other guaranty of the Guarantied Obligations, whether executed by any other Guarantor or by any other Person, and the liability of each of the Guarantors hereunder shall not be affected or impaired by (i) any payment on, or in reduction of, any such other guaranty or undertaking (other than payment in full of the Guarantied Obligations), (ii) any dissolution, termination, or increase, decrease, or change in personnel by any Grantor, (iii) any payment made to Agent, any other member of the Lender Group, or any Bank Product Provider on account of the Obligations which Agent, such other member of the Lender Group, or such Bank Product Provider repays to any Grantor pursuant to court order in any bankruptcy, reorganization, arrangement, moratorium or other debtor relief proceeding (or any settlement or compromise of any claim made in such a proceeding relating to such payment), and each of the Guarantors waives any right to the deferral or modification of its obligations hereunder by reason of any such proceeding, (iv) any action or inaction by Agent, any other member of the Lender Group, or any Bank Product Provider, or (v) any invalidity, irregularity, avoidability, or unenforceability of all or any part of the Obligations or of any security therefor.

(d) This Guaranty includes all present and future Guarantied Obligations including any under transactions continuing, compromising, extending, increasing, modifying, releasing, or renewing the Guarantied Obligations, changing the interest rate, payment terms, or other terms and conditions thereof, or creating new or additional Guarantied Obligations after prior Guarantied Obligations have been satisfied in whole or in part. To the maximum extent permitted by law, each Guarantor hereby waives any right to revoke this Guaranty as to future Guarantied Obligations. If such a revocation is effective notwithstanding the foregoing waiver, each Guarantor acknowledges and agrees that (i) no such revocation shall be effective until written notice thereof has been received by Agent, (ii) no such revocation shall apply to any Guarantied Obligations in existence on the date of receipt by Agent of such written notice (including any subsequent continuation, extension, or renewal thereof, or change in the interest rate, payment terms, or other terms and conditions thereof), (iii) no such revocation shall apply to any Guarantied Obligations made or created after such date to the extent made or created pursuant to a legally binding commitment of any member of the Lender Group or any Bank Product Provider in existence on the date of such revocation, (iv) no payment by any Guarantor, any Borrower, or from any other source, prior to the date of Agent's receipt of written notice of such revocation shall reduce the maximum obligation of such Guarantor hereunder, and (v) any payment by any Borrower or from any source other than such Guarantor subsequent to the date of such revocation shall first be applied to that portion of the Guarantied Obligations as to which the revocation is effective and which are not, therefore, guaranteed hereunder, and to the extent so applied shall not reduce the maximum obligation of such Guarantor hereunder. This Guaranty shall be binding upon each Guarantor, its successors and assigns and inure to the benefit of and be enforceable by Agent (for the benefit of the Lender Group and the Bank Product Providers) and its successors, transferees, or assigns.

(e) The guaranty by each of the Guarantors hereunder is a guaranty of payment and not of collection. The obligations of each of the Guarantors hereunder are independent of the obligations of any other Guarantor or Grantor or any other Person and a separate action or actions may be brought and prosecuted against one or more of the Guarantors whether or not action is brought against any other Guarantor or Grantor or any other Person and whether or not any other Guarantor or Grantor or any other Person be joined in any such action or actions. Each of the Guarantors waives, to the fullest extent permitted by law, the benefit of any statute of limitations affecting its liability hereunder or the enforcement hereof. Any payment by any Grantor or other circumstance which operates to toll any statute of limitations as to any Grantor shall operate to toll the statute of limitations as to each of the Guarantors.

(f) Each of the Guarantors authorizes Agent, the other members of the Lender Group, and the Bank Product Providers without notice or demand (other than any notice expressly required to be provided hereunder or under any other Loan Document), and without affecting or impairing its liability hereunder, from time to time to:

(i) change the manner, place, or terms of payment of, or change or extend the time of payment of, renew, increase, accelerate, or alter: (A) any of the Obligations (including any increase or decrease in the principal amount thereof or the rate of interest or fees thereon), or (B) any security therefor or any liability incurred directly or indirectly in respect thereof, and this Guaranty shall apply to the Obligations as so changed, extended, renewed, or altered;

(ii) take and hold security for the payment of the Obligations and sell, exchange, release, impair, surrender, realize upon, collect, settle, or otherwise deal with in any manner and in any order any property at any time pledged or mortgaged to secure the Obligations or any of the Guarantied Obligations (including any of the obligations of all or any of the Guarantors under this Guaranty) incurred directly or indirectly in respect thereof or hereof, or any offset on account thereof;

(iii) exercise or refrain from exercising any rights against any Grantor;

(iv) release or substitute any one or more endorsers, guarantors, any Grantor, or other obligors;

(v) settle or compromise any of the Obligations, any security therefor, or any liability (including any of those of any of the Guarantors under this Guaranty) incurred directly or indirectly in respect thereof or hereof, and may subordinate the payment of all or any part thereof to the payment of any liability (whether due or not) of any Grantor to its creditors;

(vi) apply any sums by whomever paid or however realized to any liability or liabilities of any Grantor to Agent, any other member of the Lender Group, or any Bank Product Provider regardless of what liability or liabilities of such Grantor remain unpaid;

(vii) consent to or waive any breach of, or any act, omission, or default under, this Agreement, any other Loan Document, any Bank Product Agreement, or any of the instruments or agreements referred to herein or therein, or otherwise amend, modify, or supplement this Agreement, any other Loan Document, any Bank Product Agreement, or any of such other instruments or agreements; or

(viii) take any other action that could, under otherwise applicable principles of law, give rise to a legal or equitable discharge of one or more of the Guarantors from all or part of its liabilities under this Guaranty (other than a defense of payment in full of the Guarantied Obligations).

(g) It is not necessary for Agent, any other member of the Lender Group, or any Bank Product Provider to inquire into the capacity or powers of any of the Guarantors or the officers, directors, partners or agents acting or purporting to act on their behalf, and any Obligations made or created in reliance upon the professed exercise of such powers shall be guaranteed hereunder.

(h) Each Guarantor jointly and severally guarantees that the Guarantied Obligations will be paid strictly in accordance with the terms of the Loan Documents, regardless of any law, regulation, or order now or hereafter in effect in any jurisdiction affecting any of such terms or the rights of any member of the Lender Group or any Bank Product Provider with respect thereto. The obligations of each Guarantor under this Guaranty are independent of the Guarantied Obligations, and a separate action or actions may be brought and prosecuted against each Guarantor to enforce such obligations, irrespective of whether any action is brought against any other Guarantor or whether any other Guarantor is joined in any such action or actions. The liability of each Guarantor under this Guaranty shall be absolute and unconditional irrespective of, and each Guarantor hereby irrevocably waives any defense it may now or hereafter have in any way relating to, any or all of the following:

(i) any lack of validity or enforceability of any Loan Document or any agreement or instrument relating thereto;

(ii) any change in the time, manner, or place of payment of, or in any other term of, all or any of the Guarantied Obligations, or any other amendment or waiver of or any consent to departure from any Loan Document, including any increase in the Guarantied Obligations resulting from the extension of additional credit;

(iii) any taking, exchange, release, or non-perfection of any Lien in and to any Collateral, or any taking, release, amendment, waiver, supplement, restatements, extension, novation, renewal, replacements, or continuation of, or consent to departure from any other guaranty, for all or any of the Guarantied Obligations;

(iv) the existence of any claim, set-off, defense, or other right that any Guarantor may have at any time against any Person, including Agent, any other member of the Lender Group, or any Bank Product Provider;

(v) any defense, set-off, counterclaim, or claim, of any kind or nature, arising directly or indirectly from the present or future lack of perfection, sufficiency, validity, or enforceability of the Guarantied Obligations or any security therefor;

(vi) any right or defense arising by reason of any claim or defense based upon an election of remedies by any member of the Lender Group or any Bank Product Provider including any defense based upon an impairment or elimination of such Guarantor's rights of subrogation, reimbursement, contribution, or indemnity of such Guarantor against any Grantor or any other guarantors or sureties;

(vii) any change, restructuring, or termination of the corporate, limited liability company, or partnership structure or existence of any Grantor; or

(viii) any other circumstance that might otherwise constitute a defense available to, or a discharge of, any Grantor or any other guarantor or surety.

(i) Waivers.

(i) Each of the Guarantors waives any right (except as shall be required by applicable statute and cannot be waived) to require Agent, any other member of the Lender Group, or any Bank Product Provider to (i) proceed against any other Grantor or any other Person, (ii) proceed against or exhaust any security held from any other Grantor or any other Person, or (iii) protect, secure, perfect, or insure any security interest or Lien on any property subject thereto or exhaust any right to take any action against any other Grantor, any other Person, or any collateral, or (iv) pursue any other remedy in any member of the Lender Group's or any Bank Product Provider's power whatsoever. Each of the Guarantors waives any defense based on or arising out of any defense of any Grantor or any other Person, other than payment of the Guarantied Obligations to the extent of such payment, based on or arising out of the disability of any Grantor or any other Person, or the validity, legality, or unenforceability of the Obligations or any part thereof from any cause, or the cessation from any cause of the liability of any Grantor other than payment of the Obligations to the extent of such payment. Agent may, at the election of the Required Lenders, foreclose upon any Collateral held by Agent by one or more judicial or non-judicial sales or other dispositions, whether or not every aspect of any such sale is commercially reasonable or otherwise fails to comply with applicable law or may exercise any other right or remedy Agent, any other member of the Lender Group, or any Bank Product Provider may have against any Grantor or any other Person, or any security, in each case, without affecting or impairing in any way the liability of any of the Guarantors hereunder except to the extent the Guarantied Obligations have been paid.

(ii) Each of the Guarantors waives all presentments, demands for performance, protests and notices, including notices of nonperformance, notices of protest, notices of dishonor, notices of acceptance of this Guaranty, and notices of the existence, creation, or incurring of new or additional Obligations or other financial accommodations. Each of the Guarantors waives notice of any Default or Event of Default under any of the Loan Documents. Each of the Guarantors assumes all responsibility for being and keeping itself informed of each Grantor's financial condition and assets and of all other circumstances bearing upon the risk of nonpayment of the Obligations and the nature, scope, and extent of the risks which each of the Guarantors assumes and incurs hereunder, and agrees that neither Agent nor any of the other members of the Lender Group nor any Bank Product Provider shall have any duty to advise any of the Guarantors of information known to them regarding such circumstances or risks.

(iii) To the fullest extent permitted by applicable law, each Guarantor hereby waives: (A) any right to assert against any member of the Lender Group or any Bank Product Provider, any defense (legal or equitable) (other than the defense that all of the Guarantied Obligations have been paid in full), set-off, counterclaim, or claim which each Guarantor may now or at any time hereafter have against any Borrower or any other party liable to any member of the Lender Group or any Bank Product Provider, (B) any defense, set-off, counterclaim, or claim, of any kind or nature, arising directly or indirectly from the present or future lack of perfection, sufficiency, validity, or enforceability of the Guarantied Obligations or any security therefor, (C) any right or defense arising by reason of any claim or defense based upon an election of remedies by any member of the Lender Group or any Bank Product Provider including any defense based upon an impairment or elimination of such Guarantor's rights of subrogation, reimbursement, contribution, or indemnity of such Guarantor against any Borrower or other guarantors or sureties, and (D) the benefit of any statute of limitations affecting such Guarantor's liability hereunder or the enforcement thereof, and any act which shall defer or delay the operation of any statute of limitations applicable to the Guarantied Obligations shall similarly operate to defer or delay the operation of such statute of limitations applicable to such Guarantor's liability hereunder.

(iv) No Guarantor will exercise any rights that it may now or hereafter acquire against any Grantor or any other guarantor that arise from the existence, payment, performance or enforcement of such Guarantor's obligations under this Guaranty, including any right of subrogation, reimbursement, exoneration, contribution or indemnification and any right to participate in any claim or remedy of Agent, any other member of the Lender Group, or any Bank Product Provider against any Grantor or any other guarantor or any Collateral, whether or not such claim, remedy or right arises in equity or under contract, statute or common law, including the right to take or receive from any Grantor or any other guarantor, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security solely on account of such claim, remedy or right, unless and until all of the Guarantied Obligations and all other amounts payable under this Guaranty shall have been paid in full in cash and all of the Commitments have been terminated. If any amount shall be paid to any Guarantor in violation of the immediately preceding sentence, such amount shall be held in trust for the benefit of Agent, for the benefit of the Lender Group and the Bank Product Providers, and shall forthwith be paid to Agent to be credited and applied to the Guarantied Obligations and all other amounts payable under this Guaranty, whether matured or unmatured, in accordance with the terms of the Credit Agreement, or to be held as Collateral for any Guarantied Obligations or other amounts payable under this Guaranty thereafter arising. Notwithstanding anything to the contrary contained in this Guaranty, no Guarantor may exercise any rights of subrogation, contribution, indemnity, reimbursement or other similar rights against, and may not proceed or seek recourse against or with respect to any property or asset of, any other Grantor (the "Foreclosed Grantor"), including after payment in full of the Obligations, if all or any portion of the Obligations have been satisfied in connection with an exercise of remedies in respect of the Equity Interests of such Foreclosed Grantor whether pursuant to this Agreement or otherwise.

(v) Each of the Guarantors hereby acknowledges and affirms that it understands that to the extent the Guarantied Obligations are secured by Real Property located in California, Guarantors shall be liable for the full amount of the liability hereunder notwithstanding the foreclosure on such Real Property by trustee sale or any other reason impairing such Guarantor's right to proceed against any Loan Party. In accordance with Section 2856 of the California Civil Code or any similar laws of any other applicable jurisdiction, each of the Guarantors hereby waives until such time as the Guarantied Obligations have been paid in full:

(1) all rights of subrogation, reimbursement, indemnification, and contribution and any other rights and defenses that are or may become available to the Guarantors by reason of Sections 2787 to 2855, inclusive, 2899, and 3433 of the California Civil Code or any similar laws of any other applicable jurisdiction;

(2) all rights and defenses that the Guarantors may have because the Guarantied Obligations are secured by Real Property located in California, meaning, among other things, that: (A) Agent, the other members of the Lender Group, and the Bank Product Providers may collect from the Guarantors without first foreclosing on any real or personal property collateral pledged by any Borrower or any other Grantor, and (B) if Agent, on behalf of the Lender Group, forecloses on any Real Property collateral pledged by any Borrower or any other Grantor, (1) the amount of the Guarantied Obligations may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price, and (2) the Lender Group may collect from the Guarantors even if, by foreclosing on the Real Property collateral, Agent or the other members of the Lender Group have destroyed or impaired any right the Guarantors may have to collect from any other Grantor, it being understood that this is an unconditional and irrevocable waiver of any rights and defenses the Guarantors may have because the Guarantied Obligations are secured by Real Property (including, without limitation, any rights or defenses based upon Sections 580a, 580d, or 726 of the California Code of Civil Procedure or any similar laws of any other applicable jurisdiction); and

(3) all rights and defenses arising out of an election of remedies by Agent, the other members of the Lender Group, and the Bank Product Providers, even though that election of remedies, such as a non-judicial foreclosure with respect to security for the Guarantied Obligations, has destroyed Guarantors' rights of subrogation and reimbursement against any Grantor by the operation of Section 580d of the California Code of Civil Procedure or any similar laws of any other applicable jurisdiction or otherwise.

(vi) Each of the Guarantors represents, warrants, and agrees that each of the waivers set forth above is made with full knowledge of its significance and consequences and that if any of such waivers are determined to be contrary to any applicable law or public policy, such waivers shall be effective to the maximum extent permitted by law.

(vii) The provisions in this Section 2 which refer to certain sections of the California Civil Code or the California Code of Civil Procedure are included in this Guaranty solely out of an abundance of caution and shall not be construed to mean that any of the above-referenced provisions of California law are in any way applicable to this Guaranty.

3. Grant of Security. Each Grantor hereby unconditionally grants, collaterally assigns, and pledges to Agent, for the benefit of each member of the Lender Group and each of the Bank Product Providers, to secure the Secured Obligations (whether now existing or hereafter arising), a continuing security interest (hereinafter referred to as the "Security Interest") in all of such Grantor's right, title, and interest in and to the following, whether now owned or hereafter acquired or arising and wherever located (the "Collateral"):

(a) all of such Grantor's Accounts;

(b) all of such Grantor's Books;

(c) all of such Grantor's Chattel Paper;

(d) all of such Grantor's Commercial Tort Claims;

(e) all of such Grantor's Deposit Accounts;

(f) all of such Grantor's Equipment;

(g) all of such Grantor's Farm Products;

(h) all of such Grantor's Fixtures;

(i) all of such Grantor's General Intangibles;

(j) all of such Grantor's Inventory;

(k) all of such Grantor's Investment Property;

(l) all of such Grantor's Intellectual Property and Intellectual Property Licenses;

(m) all of such Grantor's Negotiable Collateral (including all of such Grantor's Pledged Notes);

(n) all of such Grantor's Pledged Interests (including all of such Grantor's Pledged Operating Agreements and Pledged Partnership Agreements);

(o) all of such Grantor's Securities Accounts;

(p) all of such Grantor's Supporting Obligations;

(q) all of such Grantor's money, Cash Equivalents, or other assets of such Grantor that now or hereafter come into the possession, custody, or control of Agent (or its agent or designee) or any other member of the Lender Group; and

(r) all of the Proceeds and products, whether tangible or intangible, of any of the foregoing, including proceeds of insurance or Commercial Tort Claims covering or relating to any or all of the foregoing, and any and all Accounts, Books, Chattel Paper, Deposit Accounts, Equipment, Farm Products, Fixtures, General Intangibles, Inventory, Investment Property, Intellectual Property, Negotiable Collateral, Pledged Interests, Securities Accounts, Supporting Obligations, money, or other tangible or intangible property resulting from the sale, lease, license, exchange, collection, or other disposition of any of the foregoing, the proceeds of any award in condemnation with respect to any of the foregoing, any rebates or refunds, whether for taxes or otherwise, and all proceeds of any such proceeds, or any portion thereof or interest therein, and the proceeds thereof, and all proceeds of any loss of, damage to, or destruction of the above, whether insured or not insured, and, to the extent not otherwise included, any indemnity, warranty, or guaranty payable by reason of loss or damage to, or otherwise with respect to any of the foregoing (the "Proceeds"). Without limiting the generality of the foregoing, the term "Proceeds" includes whatever is receivable or received when Investment Property or proceeds are sold, exchanged, collected, or otherwise disposed of, whether such disposition is voluntary or involuntary, and includes proceeds of any indemnity or guaranty payable to any Grantor or Agent from time to time with respect to any of the Investment Property.

Notwithstanding anything contained in this Agreement to the contrary, the term "Collateral" (and any component definition thereof) shall not include any Excluded Asset.

4 . Security for Secured Obligations. The Security Interest created hereby secures the payment and performance of the Secured Obligations, whether now existing or arising hereafter. Without limiting the generality of the foregoing, this Agreement secures the payment of all amounts which constitute part of the Secured Obligations and would be owed by Grantors, or any of them, to Agent, the Lender Group, the Bank Product Providers or any of them, but for the fact that they are unenforceable or not allowable (in whole or in part) as a claim in an Insolvency Proceeding involving any Grantor due to the existence of such Insolvency Proceeding. Further, the Security Interest created hereby encumbers each Grantor's right, title, and interest in all Collateral, whether now owned by such Grantor or hereafter acquired, obtained, developed, or created by such Grantor and wherever located.

5 . Grantors Remain Liable. Anything herein to the contrary notwithstanding, (a) each of the Grantors shall remain liable under the contracts and agreements included in the Collateral, including the Pledged Operating Agreements and the Pledged Partnership Agreements, to perform all of the duties and obligations thereunder to the same extent as if this Agreement had not been executed, (b) the exercise by Agent or any other member of the Lender Group of any of the rights hereunder shall not release any Grantor from any of its duties or obligations under such contracts and agreements included in the Collateral, and (c) none of the members of the Lender Group shall have any obligation or liability under such contracts and agreements included in the Collateral by reason of this Agreement, nor shall any of the members of the Lender Group be obligated to perform any of the obligations or duties of any Grantors thereunder or to take any action to collect or enforce any claim for payment assigned hereunder. Until an Event of Default shall occur and be continuing, except as otherwise provided in this Agreement, the Credit Agreement, or any other Loan Document, Grantors shall have the right to possession and enjoyment of the Collateral for the purpose of conducting the ordinary course of their respective businesses, subject to and upon the terms hereof and of the Credit Agreement and the other Loan Documents. Without limiting the generality of the foregoing, it is the intention of the parties hereto that record and beneficial ownership of the Pledged Interests, including all voting, consensual, dividend, and distribution rights, shall remain in the applicable Grantor until (i) the occurrence and continuance of an Event of Default, and (ii) Agent has notified the applicable Grantor of Agent's election to exercise such rights with respect to the Pledged Interests pursuant to Section 16.

6. Representations and Warranties. In order to induce Agent to enter into this Agreement for the benefit of the Lender Group and the Bank Product Providers, each Grantor makes the following representations and warranties to the Lender Group which shall be true, correct, and complete, in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof), as of the Closing Date, and shall be true, correct, and complete, in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof), as of the date of the making of each Revolving Loan (or other extension of credit) made thereafter, as though made on and as of the date of such Revolving Loan (or other extension of credit) (except to the extent that such representations and .warranties relate solely to an earlier date, in which case such representations and warranties shall be true and correct in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) as of such earlier date) and such representations and warranties shall survive the execution and delivery of this Agreement:

(a) The name (within the meaning of Section 9-503 of the Code) and jurisdiction of organization of each Grantor and each of its Subsidiaries is set forth on Schedule 7 (as such Schedule may be updated from time to time to reflect changes resulting from transactions permitted under the Loan Documents).

(b) The chief executive office of each Grantor and each of its Subsidiaries is located at the address indicated on Schedule 7 (as such Schedule may be updated from time to time to reflect changes resulting from transactions permitted under the Loan Documents).

(c) Each Grantor's and each of its. Subsidiaries' tax identification numbers and organizational identification numbers, if any, are identified on Schedule 7 (as such Schedule may be updated from time to time to reflect changes resulting from transactions permitted under the Loan Documents).

(d) As of the Closing Date, no Grantor and no Subsidiary of a Grantor holds any commercial tort claims that exceed $2,500,000 in amount, except as set forth on Schedule 1.

(e) Set forth on Schedule 9 (as such Schedule may be updated from time to time subject to Section 7(k)(iii) with respect to Controlled Accounts and provided that Grantors comply with Section 7(c) hereof) is a listing of all of Grantors' and their Subsidiaries' Deposit Accounts and Securities Accounts, including, with respect to each bank or securities intermediary (i) the name and address of such Person, and (ii) the account numbers of the Deposit Accounts or Securities Accounts maintained with such Person.

(f) Schedule 8 sets forth all Real Property owned by any of the Grantors as of the Closing Date.

(g) As of the Closing Date: (i) Schedule 2 provides a complete and correct list of all registered Copyrights owned by any Grantor, all applications for registration of Copyrights owned by any Grantor, and all other Copyrights owned by any Grantor and material to the conduct of the business of any Grantor, (ii) Schedule 3 provides a complete and correct list of all Intellectual Property Licenses entered into by any Grantor pursuant to which (A) any Grantor has provided any license or other rights in Intellectual Property owned or controlled by such Grantor to any other Person (other than non-exclusive software licenses granted in the ordinary course of business), or (B) any Person has granted to any Grantor any license or other rights in Intellectual Property owned or controlled by such Person that is material to the business of such Grantor, including any Intellectual Property that is incorporated in any Inventory, software, or other product marketed, sold, licensed, or distributed by such Grantor (other than off-the-shelf, shrink-wrapped or "click to accept" software licenses or other licenses to generally commercially available software), (iii) Schedule 4 provides a complete and correct list of all Patents owned by any Grantor and all applications for Patents owned by any Grantor, and (iv) Schedule 6 provides a complete and correct list of all registered Trademarks owned by any Grantor, and all applications for registration of Trademarks owned by any Grantor, and all other Trademarks owned by any Grantor and material to the conduct of the business of any Grantor.

(h) (i) (A) each Grantor owns exclusively or holds licenses in all Intellectual Property that is necessary in or material to the conduct of its business, and (B) all employees and contractors of each Grantor who were involved in the creation or development of any Intellectual Property for such Grantor that is necessary in or material to the business of such Grantor have signed agreements containing assignment of Intellectual Property rights to such Grantor and obligations of confidentiality;

(ii) to each Grantor's knowledge after reasonable inquiry, no Person has infringed or misappropriated or is currently infringing or misappropriating any Intellectual Property rights owned by such Grantor, in each case, that either individually or in the aggregate could reasonably be expected to result in a Material Adverse Effect;

(iii) to each Grantor's knowledge after reasonable inquiry, all registered Copyrights, registered Trademarks, and issued Patents that are owned by such Grantor and necessary in or material to the conduct of its business are valid, subsisting and enforceable and in compliance with all legal requirements, filings, and payments and other actions that are required to maintain such Intellectual Property in full force and effect, and

(iv) each Grantor has taken reasonable steps to maintain the confidentiality of and otherwise protect and enforce its rights in all trade secrets owned by such Grantor that are necessary in or material to the conduct of the business of such Grantor.

(i) This Agreement creates a valid security interest in the Collateral of each Grantor, to the extent a security interest therein can be created under the Code, securing the payment of the Secured Obligations. Except to the extent a security interest in the Collateral cannot be perfected by the filing of a financing statement under the Code, all filings and other actions necessary or desirable to perfect and protect such security interest have been duly taken or will have been taken upon the filing of financing statements listing each applicable Grantor, as a debtor, and Agent, as secured party, in the jurisdictions listed next to such Grantor's name on Schedule 11. Upon the making of such filings, Agent shall have a perfected first priority security interest (subject to the Intercreditor Agreement and Permitted Liens) in the Collateral of each Grantor to the extent such security interest can be perfected by the filing of a financing statement under the Code. Upon filing of any Copyright Security Agreement with the United States Copyright Office, filing of any Patent Security Agreement and any Trademark Security Agreement with the PTO, and the filing of appropriate financing statements in the jurisdictions listed on Schedule 11, all action necessary or desirable to protect and perfect the Security Interest in and on each Grantor's United States issued and registered Patents, Trademarks, or Copyrights has been taken and such perfected Security Interest is enforceable as such as against any and all creditors of and purchasers from any Grantor. All action by any Grantor necessary to protect and perfect such security interest on each item of Collateral has been duly taken.

(j) (i) Except for the Security Interest created hereby, each Grantor is and will at all times be the sole holder of record and the legal and beneficial owner, free and clear of all Liens other than Permitted Liens, of the Pledged Interests indicated on Schedule 5 as being owned by such Grantor and, when acquired by such Grantor, any Pledged Interests acquired after the Closing Date, (ii) all of the Pledged Interests are duly authorized, validly issued, fully paid and non-assessable and the Pledged Interests constitute or will constitute the percentage of the issued and outstanding Equity Interests of the Pledged Companies of such Grantor identified on Schedule 5 as supplemented or modified by any Pledged Interests Addendum or any Joinder to this Agreement, (iii) such Grantor has the right and requisite authority to pledge, the Investment Property pledged by such Grantor to Agent as provided herein, (iv) all actions necessary or desirable to perfect a Lien of, or otherwise protect, Agent's Liens in the Investment Property, and the proceeds thereof, have been duly taken, upon (A) the execution and delivery of this Agreement, (B) subject to the last paragraph of Schedule 3.1 to Credit Agreement and the Intercreditor Agreement, the taking of possession by Agent (or its agent or designee) of any certificates representing the Pledged Interests, to the extent such Pledged Interests are represented by certificates, together with undated powers (or other documents of transfer acceptable to Agent) endorsed in blank by the applicable Grantor, (C) the filing of financing statements in the applicable jurisdiction set forth on Schedule 11 for such Grantor with respect to the Pledged Interests of such Grantor that are not represented by certificates, and (D) subject to the last paragraph of Schedule 3.1 to Credit Agreement and the Intercreditor Agreement, with respect to any Securities Accounts, the delivery of Control Agreements with respect thereto, and (v) subject to the last paragraph of Schedule 3.1 to Credit Agreement and the Intercreditor Agreement, each Grantor has delivered to and deposited with Agent all certificates representing the Pledged Interests owned by such Grantor to the extent such Pledged Interests are represented by certificates, and undated powers (or other documents of transfer acceptable to Agent) endorsed in blank with respect to such certificates. None of the Pledged Interests owned or held by such Grantor has been issued or transferred in violation of any securities registration, securities disclosure, or similar laws of any jurisdiction to which such issuance or transfer may be subject.

(k) No consent, approval, authorization, or other order or other action by, and no notice to or filing with, any Governmental Authority or any other Person is required (i) for the grant of a Security Interest by such Grantor in and to the Collateral pursuant to this Agreement or for the execution, delivery, or performance of this Agreement by such Grantor, or (ii) for the exercise by Agent of the voting or other rights provided for in this Agreement with respect to the Investment Property or the remedies in respect of the Collateral pursuant to this Agreement, except (A) as may be required in connection with such disposition of Investment Property by laws affecting the offering and sale of securities generally, (B) for consents, approvals, authorizations, or other orders or actions that have already been obtained or given (as applicable) and that are still in force, and (C) the filing of financing statements and other filings necessary to perfect the Security Interests granted hereby. No Intellectual Property License of any Grantor that is necessary in or material to the conduct of such Grantor's business requires any consent of any other Person that has not been obtained in order for such Grantor to grant the security interest granted hereunder in such Grantor's right, title or interest in or to such Intellectual Property License.

(l) Schedule 12 sets forth all Titled Equipment with a fair market value in excess of $150,000 owned by Grantors as of the Closing Date, by model, model year, and vehicle identification number (to the extent available).

(m) There is no default, breach, violation, or event of acceleration existing under any promissory note (as defined in the Code) constituting Collateral and pledged hereunder (each a "Pledged Note") and no event has occurred or circumstance exists which, with the passage of time or the giving of notice, or both, would constitute a default, breach, violation, or event of acceleration under any Pledged Note. No Grantor that is an obligee under a Pledged Note has waived any default, breach, violation, or event of acceleration under such Pledged Note.

(n) As to all limited liability company or partnership interests, issued under any Pledged Operating Agreement or Pledged Partnership Agreement, each Grantor hereby represents and warrants that the Pledged Interests issued pursuant to such agreement (i) are not dealt in or traded on securities exchanges or in securities markets, (ii) do not constitute investment company securities, and (iii) are not held by such Grantor in a Securities Account. In addition, none of the Pledged Operating Agreements, the Pledged Partnership Agreements, or any other agreements governing any of the Pledged Interests issued under any Pledged Operating Agreement or Pledged Partnership Agreement, provides that such Pledged Interests are securities governed by Article 8 of the Uniform Commercial Code as in effect in any relevant jurisdiction.

7 . Covenants. Each Grantor, jointly and severally, covenants and agrees with Agent that, subject to the Intercreditor Agreement, from and after the date of this Agreement and until the date of termination of this Agreement in accordance with Section 23:

(a) Possession of Collateral. Subject to the last paragraph of Schedule 3.1 to Credit Agreement and the Intercreditor Agreement, in the event that any Collateral, including Proceeds, is evidenced by or consists of Negotiable Collateral, Investment Property, or Chattel Paper having an aggregate value or face amount of $2,500,000 or more for all such Negotiable Collateral, Investment Property, or Chattel Paper, the Grantors shall promptly (and in any event within five Business Days (or such longer period as agreed to by Agent in writing in its sole discretion) after acquisition thereof), notify Agent thereof, and if and to the extent that perfection or priority of Agent's Security Interest is dependent on or enhanced by possession, the applicable Grantor, promptly (and in any event within five Business Days (or such longer period as agreed to by Agent in writing in its sole discretion)) after request by Agent, shall execute such other documents and instruments as shall be requested by Agent or, if applicable, endorse and deliver physical possession of such Negotiable Collateral, Investment Property, or Chattel Paper to Agent, together with such undated powers (or other relevant document of transfer acceptable to Agent) endorsed in blank as shall be requested by Agent, and shall do such other acts or things deemed necessary or desirable by Agent to protect Agent's Security Interest therein;

(b) Chattel Paper.

(i) Subject to the last paragraph of Schedule 3.1 to Credit Agreement and the Intercreditor Agreement, promptly (and in any event within five Business Days (or such longer period as agreed to by Agent in writing in its sole discretion)) after request by Agent, each Grantor shall take all steps reasonably necessary to grant Agent control of all electronic Chattel Paper in accordance with the Code and all "transferable records" as that term is defined in Section 16 of the Uniform Electronic Transaction Act and Section 201 of the federal Electronic Signatures in Global and National Commerce Act as in effect in any relevant jurisdiction, to the extent that the aggregate value or face amount of such electronic Chattel Paper equals or exceeds $2,500,000;

(ii) If any Grantor retains possession of any Chattel Paper or instruments (which retention of possession shall be subject to the extent permitted hereby and by the Credit Agreement), promptly upon the request of Agent, such Chattel Paper and instruments shall be marked with the following legend: "This writing and the obligations evidenced or secured hereby are subject to the Security Interest of Wells Fargo Bank, National Association, as Agent for the benefit of the Lender Group and the Bank Product Providers";

(c) Control Agreements.

(i) Subject to any applicable time periods provided under Schedule 3.6 to the Credit Agreement, each, Grantor shall obtain an authenticated Control Agreement (which may include a Controlled Account Agreement), from each bank maintaining a Deposit Account or Securities Account for such Grantor (other than with respect to any Excluded Accounts);

(ii) Subject to any applicable time periods provided under Schedule 3.6 to the Credit Agreement, each Grantor shall obtain an authenticated Control Agreement, from each issuer of uncertificated securities, securities intermediary, or commodities intermediary issuing or holding any financial assets or commodities to or for any Grantor, or maintaining a Securities Account for such Grantor (other than with respect to any Excluded Accounts); and

(iii) Subject to any applicable time periods provided under Schedule 3.6 to the Credit Agreement, each Grantor shall obtain an authenticated Control Agreement with respect to all of such Grantor's investment property;

(d) Letter-of-Credit Rights. Subject to the last paragraph of Schedule 3.1 to Credit Agreement and the Intercreditor Agreement, if the Grantors (or any of them) are or become the beneficiary of letters of credit having a face amount or value of $2,500,000 or more in the aggregate, then the applicable Grantor or Grantors shall promptly (and in any event within five Business Days (or such longer period as agreed to by Agent in writing in its sole discretion)) after request by Agent, enter into a tri-party agreement with Agent and the issuer or confirming bank with respect to letter-of-credit rights assigning such letter-of-credit rights to Agent and directing all payments thereunder to Agent's Account, all in form and substance reasonably satisfactory to Agent;

(e) Commercial Tort Claims. Subject to the last paragraph of Schedule 3.1 to Credit Agreement and the Intercreditor Agreement, if the Grantors (or any of them) obtain Commercial Tort Claims having a value, or involving an asserted claim, in the amount of $2,500,000 or more in the aggregate for all Commercial Tort Claims, then the applicable Grantor or Grantors shall promptly (and in any event within five Business Days (or such longer period as agreed to by Agent in writing in its sole discretion) of obtaining such Commercial Tort Claim), notify Agent upon incurring or otherwise obtaining such Commercial Tort Claims and, promptly (and in any event within five Business Days (or such longer period as agreed to by Agent in writing in its sole discretion)) after request by Agent, amend Schedule 1 to describe such Commercial Tort Claims in a manner that reasonably identifies such Commercial Tort Claims and which is otherwise reasonably satisfactory to Agent, and hereby authorizes the filing of additional financing statements or amendments to existing financing statements describing such Commercial Tort Claims, and agrees to do such other acts or things deemed necessary or desirable by Agent to give Agent a perfected security interest (having the priority set forth in the Intercreditor Agreement) in any such Commercial Tort Claim;

(f) Government Contracts. Subject to the last paragraph of Schedule 3.1 to Credit Agreement and the Intercreditor Agreement, other than Accounts and Chattel Paper the aggregate value of which does not at any one time exceed $100,000, if any Account or Chattel Paper arises out of a contract or contracts with the United States of America or any department, agency, or instrumentality thereof, Grantors shall promptly (and in any event within five Business Days (or such longer period as agreed to by Agent in writing in its sole discretion) of the creation thereof) notify Agent thereof and, promptly (and in any event within five Business Days (or such longer period as agreed to by Agent in writing in its sole discretion)) after request by Agent, execute any instruments or take any steps reasonably required by Agent in order that all moneys due or to become due under such contract or contracts shall be assigned to Agent, for the benefit of the Lender Group and the Bank Product Providers, and shall provide written notice thereof under the Assignment of Claims Act or other applicable law;

(g) Intellectual Property.

(i) Upon the request of Agent, in order to facilitate 'filings with the PTO and the United States Copyright Office, each Grantor shall execute and deliver to Agent one or more Copyright Security Agreements, Trademark Security Agreements, or Patent Security Agreements to further evidence Agent's Lien on such Grantor's United States issued and registered Patents, Trademarks, or Copyrights, and the General Intangibles of such Grantor relating thereto or represented thereby;

(ii) Each Grantor shall have the duty, with respect to Intellectual Property that is necessary in or material to the conduct of such Grantor's business, to protect and diligently enforce and defend at such Grantor's expense its Intellectual Property, including (A) to diligently enforce and defend, including promptly suing for infringement, misappropriation, or dilution and to recover any and all damages for such infringement, misappropriation, or dilution, and filing for opposition, interference, and cancellation against conflicting Intellectual Property rights of any Person, (B) to prosecute diligently any trademark application or service mark application that is part of the Trademarks pending as of the date hereof or hereafter until the termination of this Agreement, (C) to prosecute diligently any patent application that is part of the Patents pending as of the date hereof or hereafter until the termination of this Agreement, (D) to take all reasonable and necessary action to preserve and maintain all of such Grantor's Trademarks, Patents, Copyrights, Intellectual Property Licenses, and its rights therein, including paying all maintenance fees and filing of applications for renewal, affidavits of use, and affidavits of noncontestability, and (E) to require all employees, consultants, and contractors of each Grantor who were involved in the creation or development of such Intellectual Property to sign agreements containing assignment of Intellectual Property rights and obligations of confidentiality. Each Grantor further agrees not to abandon any Intellectual Property or Intellectual Property License that is necessary in or material to the conduct of such Grantor's business. Each Grantor hereby agrees to take the steps described in this Section 7(g)(ii) with respect to all new or acquired Intellectual Property to which it or any of its Subsidiaries is now or later becomes entitled that is necessary in or material to the conduct of such Grantor's business;

(iii) Grantors acknowledge and agree that the Lender Group shall have no duties with respect to any Intellectual Property or Intellectual Property Licenses of any Grantor. Without limiting the generality of this Section 7(g)(iii), Grantors acknowledge and agree that no member of the Lender Group shall be under any obligation to take any steps necessary to preserve rights in the Collateral consisting of Intellectual Property or Intellectual Property Licenses against any other Person, but any member of the Lender Group may do so at its option from and after the occurrence and during the continuance of an Event of Default, and all expenses incurred in connection therewith (including reasonable fees and expenses of attorneys and other professionals) shall be for the sole account of Borrowers and shall be chargeable to the Loan Account;

(iv) Each Grantor shall (A) if the event giving rise to the obligations under this clause (iv) during the first three (3) fiscal quarters of any fiscal year, on or before the date on which financial statements are required to be delivered pursuant to Section 5.1(a) of the Credit Agreement for the fiscal quarter in which the relevant event occurred or (B) if the event giving rise to the obligation under this clause (iv) occurs during the fourth fiscal quarter of any fiscal year, on or before the date that is ninety (90) days after the end of such fiscal quarter (or, in the case of each of clauses (A) and (B), such longer period as the Agent may agree to in its sole discretion) provide Agent with a written report of all new Patents, Trademarks or Copyrights that are registered or the subject of pending applications for registrations, and of all Intellectual Property Licenses that are material to the conduct of such Grantor's business, in each case, which were acquired, registered, or for which applications for registration were filed by any Grantor during the prior period and any statement of use or amendment to allege use with respect to intent-to-use trademark applications. In the case of such registrations or applications therefor, which were acquired by any Grantor, each such Grantor shall file the necessary documents with the appropriate Governmental Authority identifying the applicable Grantor as the owner (or as a co-owner thereof, if such is the case) of such Intellectual Property. In each of the foregoing cases, the applicable Grantor shall promptly cause to be prepared, executed, and delivered to Agent supplemental schedules to the applicable Loan Documents to identify such Patent, Trademark and Copyright registrations and applications therefor (with the exception of Trademark applications filed on an intent-to-use basis for which no statement of use or amendment to allege use has been filed) and Intellectual Property Licenses as being subject to the security interests created thereunder;

(v) Each Grantor shall take reasonable steps to maintain the confidentiality of, and otherwise protect and enforce its rights in, the Intellectual Property that is necessary in or material to the conduct of such Grantor's business, including, as applicable (A) protecting the secrecy and confidentiality of its confidential information and trade secrets by having and enforcing a policy requiring all current employees, consultants, licensees, vendors and contractors with access to such information to execute appropriate confidentiality agreements; (B) taking actions reasonably necessary to ensure that no trade secret falls into the public domain; and (C) protecting the secrecy and confidentiality of the source code of all software programs and applications of which it is the owner or licensee by having and enforcing a policy requiring any licensees (or sublicensees) of such source code to enter into license agreements with commercially reasonable use and non-disclosure restrictions; and

(vi) No Grantor shall enter into any Intellectual Property License material to the conduct of the business to receive any license or rights in any Intellectual Property of any other Person unless such Grantor has used commercially reasonable efforts to permit the assignment of or grant of a security interest in such Intellectual Property License (and all rights of Grantor thereunder) to Agent (and any transferees of Agent).

(h) Investment Property.

(i) If any Grantor shall acquire, obtain, receive or become entitled to receive any Pledged Interests after the Closing Date, it shall promptly (and in any event within five Business Days (or such longer period as agreed to by Agent in writing in its sole discretion) of acquiring or obtaining such Collateral) deliver to Agent a duly executed Pledged Interests Addendum identifying such Pledged Interests;

(ii) Upon the occurrence and during the continuance of an Event of Default, following the request of Agent, all sums of money and property paid or distributed in respect of the Investment Property that are received by any Grantor shall be held by the Grantors in trust for the benefit of Agent segregated from such Grantor's other property, and such Grantor shall deliver it forthwith to Agent in the exact form received;

(iii) [Reserved];

(iv) No Grantor shall make or consent to any amendment or other modification or waiver with respect to any Pledged Interests, Pledged Operating Agreement, or Pledged Partnership Agreement, or enter into any agreement or permit to exist any restriction with respect to any Pledged Interests if the same is prohibited pursuant to the Loan Documents;

(v) Each Grantor agrees that it will cooperate with Agent in obtaining all necessary approvals and making all necessary filings under federal, state, local, or foreign law to effect the perfection of the Security Interest on the Investment Property or to effect any sale or transfer thereof;

(vi) As to all limited liability company or partnership interests owned by such Grantor and issued under any Pledged Operating Agreement or Pledged Partnership Agreement, each Grantor hereby covenants that the Pledged Interests issued pursuant to such agreement (A) are not and shall not be dealt in or traded on securities exchanges or in securities markets, (B) do not and will not constitute investment company securities, and (C) are not and will not be held by such Grantor in a securities account. In addition, none of the Pledged Operating Agreements, the Pledged Partnership Agreements, or any other agreements governing any of the Pledged Interests issued under any Pledged Operating Agreement or Pledged Partnership Agreement, provides or shall provide that such Pledged Interests are securities governed by Article 8 of the Uniform Commercial Code as in effect in any relevant jurisdiction; and

(vii) With regard to any Pledged Interests that are not certificated, any such Grantor of such non-certificated Pledged Interests (i) agrees promptly to note on its books the security interests granted to Agent and confirmed under this Agreement, (ii) agrees that after the occurrence and during the continuation of an Event of Default, it will comply with instructions of Agent or its nominee with respect to the applicable Pledged Interests without further consent by the applicable Grantor, (iii) to the extent permitted by law, agrees that the "issuer's jurisdiction" (as defined in Section 8-110 of the UCC) is the State of New York, (iv) agrees to notify Agent upon obtaining knowledge of any interest in favor of any person in the applicable Pledged Interests that is materially adverse to the interest of the Agent therein, other than any Permitted Liens and (v) waives any right or requirement at any time hereafter to receive a copy of this Agreement in connection with the registration of any Pledged Interests hereunder in the name of Agent or its nominee or the exercise of voting rights by Agent or its nominee.

(i) Real Property; Fixtures. Each Grantor covenants and agrees that upon the acquisition of any fee interest in any Material Real Property (except for any Excluded Real Property), it will within ninety (90) days after the Closing Date or after the acquisition thereof (or such longer period as the Agent may agree in its sole discretion), as applicable, grant to Agent, for the benefit of the Lender Group and the Bank Product Providers, a first priority Mortgage (subject to the Intercreditor Agreement and Permitted Liens) on each fee interest in Material Real Property now or hereafter owned by such Grantor (except for any Excluded Real Property). The Administrative Agent shall have received with respect to any Material Real Properties (other than any Excluded Real Property), a Mortgage and any necessary UCC fixture filing in respect thereof, in each case together with, to the extent customary and appropriate (as reasonably determined by the Administrative Agent and the Borrowers):

(i) evidence that (A) counterparts of such Mortgage have been duly executed, acknowledged and delivered and such Mortgage and any corresponding Code or equivalent fixture filing are in form suitable for filing or recording in all filing or recording offices that the Agent may deem reasonably necessary in order to create a valid and subsisting perfected Lien on such Material Real Property in favor of the Agent, for the benefit of the Lender Group and the Bank Product Providers, to secure the Secured Obligations, (B) such Mortgage and any corresponding Code or equivalent fixture filings have been duly recorded or filed, as applicable, and (C) all filing and recording taxes and fees have been paid or otherwise provided for in a manner reasonably satisfactory to the Agent;

(ii) customary legal opinions of local counsel for the relevant Grantor with respect to each Mortgage in the jurisdiction in which such Material Real Property is located as the Agent may reasonably request, which legal opinions shall be in form and substance reasonably satisfactory to the Administrative Agent;

(iii) environmental assessments in form and scope reasonably satisfactory to the Agent;

(iv) a policy or policies of title insurance insuring the Lien of such Mortgage in an amount reasonably satisfactory to the Agent naming the Agent as the insured for the benefit of the Lender Group and the Bank Product Providers, issued by a nationally recognized title insurance company reasonably acceptable to the Agent insuring the Lien of each such Mortgage as a valid and enforceable Lien on such Material Real Property described therein, free and clear of any other Liens except Permitted Liens, together with such endorsements, coinsurance and reinsurance as the Agent may reasonably request;

(v) American Land Title Association/American Congress of Surveying and Mapping (ALTA/ACSM) forms of surveys by a duly registered and licensed land surveyor for which all necessary fees have been paid dated a date reasonably acceptable to the Agent, certified to the Agent and the title insurance company in a manner reasonably satisfactory to the Agent; provided that the Agent may in its reasonable discretion accept any such existing survey so long as such existing survey satisfies any applicable local law requirements; and

(vi) appraisals (if required under the Financial Institutions Reform Recovery and Enforcement Act of 1989, as amended, as determined by the Agent in its reasonable discretion) and "Life-of-Loan" flood certifications and any required borrower notices under Regulation H together with any other documents as the Agent and any Lender may reasonably request to complete their respective flood due diligence (together with evidence of federal flood insurance for any such Flood Hazard Property located in a flood hazard area); provided that the Agent may in its reasonable discretion accept any such existing certificate or appraisal so long as such existing certificate or appraisal satisfies any applicable local law requirements;

(j) Transfers and Other Liens. Grantors shall not (i) sell, assign (by operation of law or otherwise) or otherwise dispose of, or grant any option with respect to, any of the Collateral, except as expressly permitted by the Credit Agreement, or (ii) create or permit to exist any Lien upon or with respect to any of the Collateral of any Grantor, except for Permitted Liens. The inclusion of Proceeds in the Collateral shall not be deemed to constitute Agent's consent to any sale or other disposition of any of the Collateral except as expressly permitted in this Agreement or the other Loan Documents;

(k) Controlled Accounts; Controlled Investments.

(i) Subject to any applicable time periods provided under Schedule 3.6 to the Credit Agreement, each Grantor shall (A) establish and maintain cash management services of a type and on terms reasonably satisfactory to Agent at Wells Fargo or one or more of the other banks set forth on Schedule 10] (each a "Controlled Account Bank"), and shall take commercially reasonable steps to ensure that all of its Account Debtors forward payment of the amounts owed by them directly to a Collection Account at such Controlled Account Bank that is not an Excluded Account (each, a "Controlled Account") (by wire transfer to the applicable Controlled Account Bank or to a lockbox maintained by the applicable Controlled Account Bank for deposit into such Collection Account), and (B) deposit or cause to be deposited promptly, and in any event no later than the second Business Day after the date of receipt thereof (or such longer period as the Agent may agree in its sole discretion), all of their Collections (including those sent directly by their Account Debtors to a Grantor) and proceeds of Collateral into a Controlled Account.

(i i) Subject to any applicable time periods provided under Schedule 3.6 to the Credit Agreement, each Grantor shall establish and maintain Controlled Account Agreements with Agent and the applicable Controlled Account Bank, in form and substance reasonably acceptable to Agent. Each such Controlled Account Agreement shall provide, among other things, that (A) the Controlled Account Bank will comply with any instructions originated by Agent directing the disposition of the funds in each applicable Controlled Account without further consent by the applicable Grantor, (B) the Controlled Account Bank waives, subordinates, or agrees not to exercise any rights of setoff or recoupment or any other claim against each applicable Controlled Account other than for payment of its service fees and other charges directly related to the administration of such Controlled Account and for returned checks or other items of payment, and (C) upon the instruction of Agent (an "Activation Instruction"), the Controlled Account Bank will forward by daily sweep all amounts in each applicable Controlled Account to the Agent's Account. Agent agrees not to issue an Activation Instruction with respect to the Controlled Accounts unless a Cash Dominion Event has occurred at the time such Activation Instruction is issued. Agent agrees to use commercially reasonable efforts to rescind an Activation Instruction (the "Rescission") after any Cash Dominion Period has ended.

(iii) So long as no Default or Event of Default has occurred and is continuing or would result therefrom, Borrowers may amend Schedule 10 to add or replace a Controlled Account Bank or Controlled Account and shall upon such addition or replacement provide to Agent an amended Schedule 10; provided, that (A) such prospective Controlled Account Bank shall be reasonably satisfactory to Agent, and (B) prior to the time of the opening of such Controlled Account, the applicable Grantor and such prospective Controlled Account Bank shall have executed and delivered to Agent a Controlled Account Agreement. Each Grantor shall close any of its Controlled Accounts (and establish replacement Controlled Account accounts in accordance with the foregoing sentence) as promptly as practicable and in any event within 45 days after notice from Agent (or such longer period as the Agent may agree in its sole discretion) that the operating performance, funds transfer, or availability procedures or performance of the Controlled Account Bank with respect to Controlled Accounts or Agent's liability under any Controlled Account Agreement with such Controlled Account Bank is no longer acceptable in Agent's reasonable judgment.

(iv) Subject to any applicable time periods provided under Schedule 3.6 to the Credit Agreement, other than the Excluded Accounts, no Grantor will, and no Grantor will permit its Subsidiaries to, make, acquire, or permit to exist Permitted Investments consisting of cash, Cash Equivalents, or amounts credited to Deposit Accounts or Securities Accounts unless Grantor or its Subsidiary, as applicable, and the applicable bank or securities intermediary have entered into Control Agreements with Agent governing such Permitted Investments in order to perfect (or further establish) Agent's Liens in such Permitted Investments.

(l) Name, Etc. No Grantor will, nor will any Grantor permit any of its Subsidiaries to, change its name, chief executive office, organizational identification number, jurisdiction of organization or organizational identity; provided, that any Grantor or any of its Subsidiaries may change its name or chief executive office upon at least ten (10) days prior written notice to Agent of such change. (or such shorter period as the Agent may agree in its sole discretion)

(m) Account Verification. Upon the occurrence and during the continuance of a Specified Event of Default, each Grantor will, and will cause each of its Subsidiaries to, permit Agent, in Agent's name or in the name or a nominee of Agent, to verify the validity, amount or any other matter relating to any Account, by mail, telephone, facsimile transmission or other electronic means of transmission or otherwise. Further, upon the occurrence and during the continuance of a Specified Event of Default, at the request of Agent, each Grantor will, and will cause each of its Subsidiaries to, send requests for verification of Accounts or, after the occurrence and during the continuance of an Event of Default, send notices of assignment of Accounts to Account Debtors and other obligors.

(n) Titled Equipment.

(i) Each Grantor shall complete, on or prior to the date that is sixty (60) days following the Closing Date (or such later date as the Agent agrees in its sole discretion), all actions necessary in order to perfect the security interest of the Agent, on behalf of the Secured Parties, in any Titled Equipment owned by a Grantor on the Closing Date, including (A) cause to be delivered to the applicable Governmental Authority a duly completed application, pay any applicable fees and take any other actions necessary in order to cause the certificate of title for such Titled Equipment at all times to be registered with the applicable Governmental Authority showing "Wells Fargo Bank, National Association, as Agent" as second lienholder thereon in the manner prescribed in the applicable jurisdiction (and Wells Fargo Bank, National Association, as Agent, in such capacity shall be the only second lienholder so registered), (B) if necessary to perfect in any jurisdiction, cause the Lien of Agent to be identified on a notice of lien or other filing made in the appropriate filing office in the applicable jurisdiction and pay all applicable fees in connection therewith, (C) provide Agent evidence reasonably satisfactory to it of the taking of the actions referred to in the preceding clauses (A) and (B), and (D) subject to the Intercreditor Agreement, deliver the certificates of title for such Titled Equipment to Agent. Promptly following the receipt by any Grantor of any document evidencing official notification from the applicable Governmental Authority of the perfection of the security interest in any Titled Equipment (and in any event within five (5) Business Days thereof), such Grantor shall deliver such notification to Agent; *provided*, that no Grantor shall be required to take the actions described in this clause (n) in respect of Titled Equipment to the extent the fair market value of such Titled Equipment for which any such actions are not taken is less than $150,000;

(ii) With respect to all Titled Equipment from time to time after the Closing Date acquired by any Grantor, each Grantor shall (A) if the event giving rise to the obligation under this clause (ii) occurs during the first three Fiscal Quarters of any Fiscal Year, on or before the date on which financial statements are required to be delivered pursuant to Section 5.1(a) of the Credit Agreement for the Fiscal Quarter in which the acquisition occurred (provided that if such date is less than sixty (60) days after the relevant acquisition occurred, then the date in this clause (A) shall be deemed to be the date that is sixty (60) days after the relevant acquisition occurred), or (B) if the event giving rise to the obligation under this clause (ii) occurs during the fourth Fiscal Quarter of any Fiscal Year, on or before the date that is sixty (60) days after the end of such Fiscal Quarter (or, in the cases of clauses (A) and (B), such longer period as the Agent may reasonably agree), deliver to the Agent a supplement to Schedule 12 attached hereto, and the relevant Grantor shall, take all actions required by clause (i) above in order to perfect the security interest of the Agent, for the benefit of the Secured Parties, in newly acquired Titled Equipment set forth on such revised Schedule 12;

(iii) Each Grantor agrees to execute all documentation reasonably required to cause the registrations and filings with the applicable Governmental Authority referred to in clause (i) above to be accomplished within the periods specified in this clause (n). Each Grantor hereby grants to Agent an absolute power of attorney to sign, upon the occurrence and during the continuance of an Event of Default, any document or instrument, and to make such filings, recordings and registrations, as may be required by the relevant Governmental Authority in order to effect an absolute assignment of all right, title and interest in any Titled Equipment;

(iv) Each Grantor will keep Titled Equipment with a fair market value of $150,000 or greater (other than (A) Titled Equipment sold in the ordinary course of business in accordance with the Credit Agreement or (B) Titled Equipment out for repair or refurbishment or out on assignment) within the states specified in Schedule 4.25 to the Credit Agreement or, upon not less than five (5) days' prior written notice (or such shorter period as the Agent may agree in its sole discretion) to the Agent indicating each new location of the Titled Equipment, at such locations in the continental United States as the Grantors may elect; *provided*, that within sixty (60) days of the relocation of any such Titled Equipment (or such later date as the Agent may agree in its sole discretion) the applicable Grantor shall take all actions required by clause (i) above in such new jurisdiction necessary to maintain or create the perfection and priority of the security interest of the Secured Parties in such Titled Equipment (subject only to Permitted Liens); and

(v) Each Grantor will maintain and preserve, all of its Titled Equipment which is necessary or useful in the proper conduct of its business in good working order and condition, ordinary wear and tear and casualty excepted;

(o) Pledged Notes. Grantors (i) without the prior written consent of Agent, will not (A) waive or release any obligation of any Person that is obligated under any of the Pledged Notes, (B) take or omit to take any action or knowingly suffer or permit any action to be omitted or taken, the taking or omission of which would result in any right of offset against sums payable under the Pledged Notes, or (C) other than Permitted Dispositions, assign or surrender their rights and interests under any of the Pledged Notes or terminate, cancel, modify, change, supplement or amend the Pledged Notes, and (ii) shall provide to Agent copies of all material written notices (including notices of default) given or received with respect to the Pledged Notes promptly after giving or receiving such notice.

(p) Keepwell. Each Qualified ECP Grantor hereby jointly and severally absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each other Loan Party to guaranty and otherwise honor all Obligations in respect of Swap Obligations. The obligations of each Qualified ECP Grantor under this Section shall remain in full force and effect until payment in full of the Obligations. Each Qualified ECP Grantor intends that this Section 7(o) constitute, and this Section 7(o) shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Grantor for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

8. Relation to Other Security Documents. The provisions of this Agreement shall be read and construed with the other Loan Documents referred to below in the manner so indicated.

(a) Credit Agreement. In the event of any conflict between any provision in this Agreement and a provision in the Credit Agreement, such provision of the Credit Agreement shall control.

(b) Patent, Trademark, Copyright Security Agreements. The provisions of the Copyright Security Agreements, Trademark Security Agreements, and Patent Security Agreements are supplemental to the provisions of this Agreement, and nothing contained in the Copyright Security Agreements, Trademark Security Agreements, or the Patent Security Agreements shall limit any of the rights or remedies of Agent hereunder. In the event of any conflict between any provision in this Agreement and a provision in a Copyright Security Agreement, Trademark Security Agreement or Patent Security Agreement, such provision of this Agreement shall control.

(c) INTERCREDITOR AGREEMENT. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THE LIENS AND SECURITY INTERESTS GRANTED TO THE AGENT, PURSUANT TO THIS AGREEMENT AND THE EXERCISE OF ANY RIGHT OR REMEDY BY THE AGENT HEREUNDER, ARE SUBJECT TO THE PROVISIONS OF THE INTERCREDITOR AGREEMENT DATED AS OF DECEMBER 6, 2018, AMONG WELLS FARGO BANK, NATIONAL ASSOCIATION, AS ABL AGENT, CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH, AS TERM LOAN AGENT, AND THE LOAN PARTIES FROM TIME TO TIME PARTY THERETO, AS SUCH INTERCREDITOR AGREEMENT MAY BE AMENDED, AMENDED AND RESTATED, RESTATED, SUPPLEMENTED, MODIFIED OR OTHERWISE IN EFFECT FROM TIME TO TIME. IN THE EVENT OF ANY CONFLICT BETWEEN THE TERMS OF THE INTERCREDITOR AGREEMENT AND THE TERMS OF THIS AGREEMENT, THE TERMS OF THE INTERCREDITOR AGREEMENT SHALL GOVERN AND CONTROL.

9. Further Assurances.

(a) Each Grantor agrees that from time to time, at its own expense, such Grantor will promptly execute and deliver all further instruments and documents, and take all further action, that Agent may reasonably request, in order to perfect and protect the Security Interest granted hereby, to create, perfect or protect the Security Interest purported to be granted hereby or to enable Agent to exercise and enforce its rights and remedies hereunder with respect to any of the Collateral.

(b) Each Grantor authorizes the filing by Agent of financing or continuation statements, or amendments thereto, and such Grantor will execute and deliver to Agent such other instruments or notices, as Agent may reasonably request, in order to perfect and preserve the Security Interest granted or purported to be granted hereby.

(c) Each Grantor authorizes Agent at any time and from time to time to file, transmit, or communicate, as applicable, financing statements and amendments (i) describing the Collateral as "all personal property of debtor" or "all assets of debtor" or words of similar effect, (ii) describing the Collateral as being of equal or lesser scope or with greater detail, or (iii) that contain any information required by part 5 of Article 9 of the Code for the sufficiency or filing office acceptance. Each Grantor also hereby ratifies any and all financing statements or amendments previously filed by Agent in any jurisdiction.

(d) Each Grantor acknowledges that it is not authorized to file any financing statement or amendment or termination statement with respect to any financing statement filed in connection with this Agreement without the prior written consent of Agent, subject to such Grantor's rights under Section 9-509(d)(2) of the Code.

(e) Notwithstanding anything to the contrary herein or in any other Loan Document, it is understood that:

(i) no action outside of the country of organization of the relevant Grantor shall be required in order to create or perfect any security interest in any asset located outside of the country of organization of such Grantor, and no non-US or non-English law security or pledge agreement or non-US or non-English law intellectual property filing, search or schedule shall be required,

(ii) any required landlord lien waivers, estoppels, warehouseman waivers or other collateral access or similar letters or agreements will be permitted to be delivered on a commercially reasonable efforts basis within 90 days after the Closing Date,

(iii) except as described in Section 7(c) and Section 7(d) hereof, no action shall be required to obtain perfection through control agreements or other control arrangements (other than control of Pledged Interests and promissory notes having an aggregate value above $2,500,000, in each case, to the extent constituting Collateral and otherwise required above),

(iv) the following Collateral shall not be required to be perfected (other than to the extent perfected by the filing of a financing statement):

(1) the capital stock of (A) any Immaterial Subsidiary and/or (B) any person that is not a subsidiary which, if a subsidiary, would constitute an Immaterial Subsidiary, and

(2) Letter of Credit Rights other than pursuant to Section 7(d) hereof.

10. Agent's Right to Perform Contracts, Exercise Rights, etc. Upon the occurrence and during the continuance of an Event of Default, Agent (or its designee) (a) may proceed to perform any and all of the obligations of any Grantor contained in any contract, lease, or other agreement and exercise any and all rights of any Grantor therein contained as fully as such Grantor itself could, (b) shall have the right to use (subject to Section 17(b)) any Grantor's rights under Intellectual Property Licenses in connection with the enforcement of Agent's rights hereunder, including the right to prepare for sale and sell any and all Inventory and Equipment now or hereafter owned by any Grantor and now or hereafter covered by such licenses, and (c) shall have the right to request that any Equity Interests that are pledged hereunder be registered in the name of Agent or any of its nominees.

11. Agent Appointed Attorney-in-Fact. Each Grantor hereby irrevocably appoints Agent its attorney-in-fact, with full authority in the place and stead of such Grantor and in the name of such Grantor or otherwise, at such time as an Event of Default has occurred and is continuing under the Credit Agreement, to take any action and to execute any instrument which Agent may reasonably deem necessary or advisable to accomplish the purposes of this Agreement, including:

(a) to ask, demand, collect, sue for, recover, compromise, receive and give acquittance and receipts for moneys due and to become due under or in connection with the Accounts or any other Collateral of such Grantor;

(b) to receive and open all mail addressed to such Grantor and to notify postal authorities to change the address for the delivery of mail to such Grantor to that of Agent;

(c) to receive, indorse, and collect any drafts or other instruments, documents, Negotiable Collateral or Chattel Paper;

(d) to file any claims or take any action or institute any proceedings which Agent may deem necessary or desirable for the collection of any of the Collateral of such Grantor or otherwise to enforce the rights of Agent with respect to any of the Collateral;

(e) to repair, alter, or supply goods, if any, necessary to fulfill in whole or in part the purchase order of any Person obligated to such Grantor in respect of any Account of such Grantor;

(f) to use any Intellectual Property or Intellectual Property Licenses of such Grantor, including but not limited to any labels, Patents, Trademarks, trade names, URLs, domain names, industrial designs, Copyrights, or advertising matter, in preparing for sale, advertising for sale, or selling Inventory or other Collateral and to collect any amounts due under Accounts, contracts or Negotiable Collateral of such Grantor; and

(g) Agent, on behalf of the Lender Group or the Bank Product Providers, shall have the right, but shall not be obligated, to bring suit in its own name to enforce the Intellectual Property and Intellectual Property Licenses and, if Agent shall commence any such suit, the appropriate Grantor shall, at the request of Agent, do any and all lawful acts and execute any and all proper documents reasonably required by Agent in aid of such enforcement.

To the extent permitted by law, each Grantor hereby ratifies all that such attorney-in-fact shall lawfully do or cause to be done by virtue hereof. This power of attorney is coupled with an interest and shall be irrevocable until this Agreement is terminated.

12. Agent May Perform. If any Grantor fails to perform any agreement contained herein, Agent may itself perform, or cause performance of, such agreement, and the reasonable expenses of Agent incurred in connection therewith shall be payable, jointly and severally, by Grantors in accordance with the terms of the Credit Agreement.

13. Agent's Duties. The powers conferred on Agent hereunder are solely to protect Agent's interest in the Collateral, for the benefit of the Lender Group and the Bank Product Providers, and shall not impose any duty upon Agent to exercise any such powers. Except for the safe custody of any Collateral in its actual possession and the accounting for moneys actually received by it hereunder, 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. Agent shall be deemed to have exercised reasonable care in the custody and preservation of any Collateral in its actual possession if such Collateral is accorded treatment substantially equal to that which Agent accords its own property.

14. Collection of Accounts, General Intangibles and Negotiable Collateral. At any time upon the occurrence and during the continuance of an Event of Default, Agent or Agent's designee may (a) make direct verification from Account Debtors with respect to any or all Accounts that are part of the Collateral, (b) notify Account Debtors of any Grantor that the Accounts, General Intangibles, Chattel Paper or Negotiable Collateral of such Grantor have been assigned to Agent, for the benefit of the Lender Group and the Bank Product Providers, or that Agent has a security interest therein, or (c) collect the Accounts, General Intangibles and Negotiable Collateral of any Grantor directly, and any collection costs and expenses shall constitute part of such Grantor's Secured Obligations under the Loan Documents.

15. Disposition of Pledged Interests by Agent. None of the Pledged Interests existing as of the date of this Agreement are, and none of the Pledged Interests hereafter acquired on the date of acquisition thereof will be, registered or qualified under the various federal or state securities laws of the United States and disposition thereof after an Event of Default has occurred and is continuing may be restricted to one or more private (instead of public) sales in view of the lack of such registration. Each Grantor understands that in connection with such disposition, Agent may approach only a restricted number of potential purchasers and further understands that a sale under such circumstances may yield a lower price for the Pledged Interests than if the Pledged Interests were registered and qualified pursuant to federal and state securities laws and sold on the open market. Each Grantor, therefore, agrees that: (a) if Agent shall, pursuant to the terms of this Agreement, sell or cause the Pledged Interests or any portion thereof to be sold at a private sale, Agent shall have the right to rely upon the advice and opinion of any nationally recognized brokerage or investment firm (but shall not be obligated to seek such advice and the failure to do so shall not be considered in determining the commercial reasonableness of such action) as to the best manner in which to offer the Pledged Interest or any portion thereof for sale and as to the best price reasonably obtainable at the private sale thereof, and (b) such reliance shall be conclusive evidence that Agent has handled the disposition in a commercially reasonable manner.

16. Voting and Other Rights in Respect of Pledged Interests.

(a) Upon the occurrence and during the continuation of an Event of Default, (i) Agent may, at its option, and with two (2) Business Days prior notice to any Grantor, and in addition to all rights and remedies available to Agent under any other agreement, at law, in equity, or otherwise, exercise all voting rights, or any other ownership or consensual rights (including any dividend or distribution rights) in respect of the Pledged Interests owned by such Grantor, but under no circumstances is Agent obligated by the terms of this Agreement to exercise such rights, and (ii) if Agent duly exercises its right to vote any of such Pledged Interests, each Grantor hereby appoints Agent, such Grantor's true and lawful attorney-in-fact and IRREVOCABLE PROXY to vote such Pledged Interests in any manner Agent deems advisable for or against all matters submitted or which may be submitted to a vote of shareholders, partners or members, as the case may be. The power-of-attorney and proxy granted hereby is coupled with an interest and shall be irrevocable.

(b) For so long as any Grantor shall have the right to vote the Pledged Interests owned by it, such Grantor covenants and agrees that it will not, without the prior written consent of Agent, vote or take any consensual action with respect to such Pledged Interests which would materially adversely affect the rights of Agent, the other members of the Lender Group, or the Bank Product Providers, or the value of the Pledged Interests.

17. Remedies. Upon the occurrence and during the continuance of an Event of Default (subject to the Intercreditor Agreement):

(a) Agent may, and, at the instruction of the Required Lenders, shall exercise in respect of the Collateral, in addition to other rights and remedies provided for herein, in the other Loan Documents, or otherwise available to it, all the rights and remedies of a secured party on default under the Code or any other applicable law. Without limiting the generality of the foregoing, each Grantor expressly agrees that, in any such event, Agent without demand of performance or other demand, advertisement or notice of any kind (except a notice specified below of time and place of public or private sale) to or upon any Grantor or any other Person (all and each of which demands, advertisements and notices are hereby expressly waived to the maximum extent permitted by the Code or any other applicable law), may take immediate possession of all or any portion of the Collateral and (i) require Grantors to, and each Grantor hereby agrees that it will at its own expense and upon request of Agent forthwith, assemble all or part of the Collateral as directed by Agent and make it available to Agent at one or more locations where such Grantor regularly maintains Collateral, and (ii) without notice except as specified below, sell the Collateral or any part thereof in one or more parcels at public or private sale, at any of Agent's offices or elsewhere, for cash, on credit, and upon such other terms as Agent may deem commercially reasonable. Each Grantor agrees that, to the extent notification of sale shall be required by law, at least ten (10) days notification by mail to the applicable 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 and specifically such notification shall constitute a reasonable "authenticated notification of disposition" within the meaning of Section 9-611 of the Code. Agent shall not be obligated to make any sale of Collateral regardless of notification of sale having been given. Agent may adjourn any public 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 (A) the internet shall constitute a "place" for purposes of Section 9-610(b) of the Code and (B) to the extent notification of sale shall be required by law, notification by mail of the URL where a sale will occur and the time when a sale will commence at least ten (10) days prior to the sale shall constitute a reasonable notification for purposes of Section 9-611(b) of the Code. Each Grantor agrees that any sale of Collateral to a licensor pursuant to the terms of a license agreement between such licensor and a Grantor is sufficient to constitute a commercially reasonable sale (including as to method, terms, manner, and time) within the meaning of Section 9-610 of the Code.

(b) Agent is hereby granted a license or other right to use, without liability for royalties or any other charge, each Grantor's Intellectual Property, including but not limited to, any labels, Patents, Trademarks, trade names, URLs, domain names, industrial designs, Copyrights, and advertising matter, whether owned by 'any Grantor or with respect to which any Grantor has rights under license, sublicense, or other agreements (including any Intellectual Property License), as it pertains to the Collateral, in preparing for sale, advertising for sale and selling any Collateral, and each Grantor's rights under all licenses and all franchise agreements shall inure to the benefit of Agent.

(c) Agent may, in addition to other rights and remedies provided for herein, in the other Loan Documents, or otherwise available to it under applicable law and without the requirement of notice to or upon any Grantor or any other Person (which notice is hereby expressly waived to the maximum extent permitted by the Code or any other applicable law), (i) with respect to any Grantor's Deposit Accounts in which Agent's Liens are perfected by control under Section 9-104 of the Code, instruct the bank maintaining such Deposit Account for the applicable Grantor to pay the balance of such Deposit Account to or for the benefit of Agent, and (ii) with respect to any Grantor's Securities Accounts in which Agent's Liens are perfected by control under Section 9-106 of the Code, instruct the securities intermediary maintaining such Securities Account for the applicable Grantor to (A) transfer any cash in such Securities Account to or for the benefit of Agent, or (B) liquidate any financial assets in such Securities Account that are customarily sold on a recognized market and transfer the cash proceeds thereof to or for the benefit of Agent.

(d) Any cash held by Agent as Collateral and all cash proceeds received by Agent in respect of any sale of, collection from, or other realization upon all or any part of the Collateral shall be applied against the Secured Obligations in the order set forth in the Credit Agreement. In the event the proceeds of Collateral are insufficient to satisfy all of the Secured Obligations in full, each Grantor shall remain jointly and severally liable for any such deficiency.

(e) Each Grantor hereby acknowledges that the Secured Obligations arise out of a commercial transaction, and agrees that if an Event of Default shall occur and be continuing Agent shall have the right to an immediate writ of possession without notice of a hearing. Agent shall have the right to the appointment of a receiver for the properties and assets of each Grantor, and each Grantor hereby consents to such rights and such appointment and hereby waives any objection such Grantor may have thereto or the right to have a bond or other security posted by Agent.

18. Remedies Cumulative. Each right, power, and remedy of Agent, any other member of the Lender Group, or any Bank Product Provider as provided for in this Agreement, the other Loan Documents or any Bank Product Agreement now or hereafter existing at law or in equity or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power, or remedy provided for in this Agreement, the other Loan Documents and the Bank Product Agreements or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Agent, any other member of the Lender Group, or any Bank Product Provider, of any one or more of such rights, powers, or remedies shall not preclude the simultaneous or later exercise by Agent, such other member of the Lender Group or such Bank Product Provider of any or all such other rights, powers, or remedies.

19. Marshaling. Agent shall not be required to marshal any present or future collateral security (including but not limited to the Collateral) for, or other assurances of payment of, the Secured Obligations or any of them or to resort to such collateral security or other assurances of payment in any particular order, and all of its rights and remedies hereunder and in respect of such collateral security and other assurances of payment shall be cumulative and in addition to all other rights and remedies, however existing or arising. To the extent that it lawfully may, each Grantor hereby agrees that it will not invoke any law relating to the marshaling of collateral which might cause delay in or impede the enforcement of Agent's rights and remedies under this Agreement or under any other instrument creating or evidencing any of the Secured Obligations or under which any of the Secured Obligations is outstanding or by which any of the Secured Obligations is secured or payment thereof is otherwise assured, and, to the extent that it lawfully may, each Grantor hereby irrevocably waives the benefits of all such laws.

20. Indemnity and Expenses. Each Grantor agrees to indemnify Agent, the other members of the Lender Group, and the Bank Product Providers from and against all claims, lawsuits and liabilities (including reasonable attorneys' fees) arising out of or resulting from this Agreement (including enforcement of this Agreement) or any other Loan Document to which such Grantor is a party in accordance with and to the extent set forth in Section 10.3 of the Credit Agreement. This provision shall survive the termination of this Agreement and the Credit Agreement and the repayment of the Secured Obligations.

21. Merger, Amendments; Etc. THIS AGREEMENT, TOGETHER WITH THE OTHER LOAN DOCUMENTS, REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN AGREEMENTS BETWEEN THE PARTIES. No waiver of any provision of this Agreement, and no consent to any departure by any Grantor herefrom, shall in any event be effective unless the same shall be in writing and signed by Agent, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No amendment of any provision of this Agreement shall be effective unless the same shall be in writing and signed by Agent and each Grantor to which such amendment applies.

22. Addresses for Notices. All notices and other communications provided for hereunder shall be given in the form and manner and delivered to Agent at its address specified in the Credit Agreement and to any of the Grantors at the address of the US Administrative Borrower specified in the Credit Agreement, or, as to any party, at such other address as shall be designated by such party in a written notice to the other party.

23. Continuing Security Interest: Assignments under Credit Agreement.

(a) This Agreement shall create a continuing security interest in the Collateral and shall (i) remain in full force and effect until the Obligations have been paid in full in accordance with the provisions of the Credit Agreement and the Commitments have expired or have been terminated, (ii) be binding upon each Grantor, and their respective successors and assigns, and (iii) inure to the benefit of, and be enforceable by, Agent, and its successors, transferees and assigns. Without limiting the generality of the foregoing clause (iii), any Lender may, in accordance with the provisions of the Credit Agreement, assign or otherwise transfer all or any portion of its rights and obligations under the Credit Agreement to any other Person, and such other Person shall thereupon become vested with all the benefits in respect thereof granted to such Lender herein or otherwise. Upon payment in full of the Secured Obligations in accordance with the provisions of the Credit Agreement and the expiration or termination of the Commitments, the Guaranty made and the Security Interest granted hereby shall terminate and all rights to the Collateral shall revert to Grantors or any other Person entitled thereto. At such time, upon Borrowers' request, Agent will authorize the filing of appropriate termination statements to terminate such Security Interest. No transfer or renewal, extension, assignment, or termination of this Agreement or of the Credit Agreement, any other Loan Document, or any other instrument or document executed and delivered by any Grantor to Agent nor any additional Revolving Loans or other loans made by any Lender to any Borrower, nor the taking of further security, nor the retaking or re-delivery of the Collateral to Grantors, or any of them, by Agent, nor any other act of the Lender Group or the Bank Product Providers, or any of them, shall release any Grantor from any obligation, except a release or discharge executed in writing by Agent in accordance with the provisions of the Credit Agreement. Agent shall not by any act, delay, omission or otherwise, be deemed to have waived any of its rights or remedies hereunder, unless such waiver is in writing and signed by Agent and then only to the extent therein set forth. A waiver by Agent of any right or remedy on any occasion shall not be construed as a bar to the exercise of any such right or remedy which Agent would otherwise have had on any other occasion.

(b) If any member of the Lender Group or any Bank Product Provider repays, refunds, restores, or returns in whole or in part, any payment or property (including any proceeds of Collateral) previously paid or transferred to such member of the Lender Group or such Bank Product Provider in full or partial satisfaction of any Secured Obligation or on account of any other obligation of any Loan Party under any Loan Document or any Bank Product Agreement, because the payment, transfer, or the incurrence of the obligation so satisfied is asserted or declared to be void, voidable, or otherwise recoverable under any law relating to creditors' rights, including provisions of the Bankruptcy Code relating to fraudulent transfers, preferences, or other voidable or recoverable obligations or transfers (each, a "Voidable Transfer"), or because such member of the Lender Group or Bank Product Provider elects to do so on the reasonable advice of its counsel in connection with a claim that the payment, transfer, or incurrence is or may be a Voidable Transfer, then, as to any such Voidable Transfer, or the amount thereof that such member of the Lender Group or Bank Product Provider elects to repay, restore, or return (including pursuant to a settlement of any claim in respect thereof), and as to all reasonable costs, expenses, and attorneys' fees of such member of the Lender Group or Bank Product Provider related thereto, (i) the liability of the Loan Parties with respect to the amount or property paid, refunded, restored, or returned will automatically and immediately be revived, reinstated, and restored and will exist, and (ii) Agent's Liens securing such liability shall be effective, revived, and remain in full force and effect, in each case, as fully as if such Voidable Transfer had never been made. If, prior to any of the foregoing, (A) Agent's Liens shall have been released or terminated, or (B) any provision of this Agreement shall have been terminated or cancelled, Agent's Liens, or such provision of this Agreement, shall be reinstated in full force and effect and such prior release, termination, cancellation or surrender shall not diminish, release, discharge, impair or otherwise affect the obligation of any Loan Party in respect of such liability or any Collateral securing such liability.

24. Survival. All representations and warranties made by the Grantors in this Agreement and in the certificates or other instruments delivered in connection with or pursuant to this Agreement shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement and the making of any loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that Agent, Issuing Lender, or any Lender may have had notice or knowledge of any Default or Event of Default or incorrect representation or warranty at the time any credit is extended under the Credit Agreement, and shall continue in full force and effect as long as the principal of or any accrued interest on any loan or any fee or any other amount payable under the Credit Agreement is outstanding and unpaid or any Letter of Credit is outstanding and so long as the Commitments have not expired or terminated.

25. CHOICE OF LAW AND VENUE; JURY TRIAL WAIVER; JUDICIAL REFERENCE PROVISION.

(a) THE VALIDITY OF THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, AND ENFORCEMENT HEREOF, THE RIGHTS OF THE PARTIES HERETO WITH RESPECT TO ALL MATTERS ARISING HEREUNDER OR RELATED HERETO, AND ANY CLAIMS, CONTROVERSIES OR DISPUTES ARISING HEREUNDER OR RELATED HERETO SHALL BE DETERMINED UNDER, GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

(b) THE PARTIES AGREE THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS AGREEMENT SHALL BE TRIED AND LITIGATED ONLY IN THE STATE AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, FEDERAL COURTS LOCATED IN THE COUNTY OF NEW YORK, STATE OF NEW YORK; PROVIDED, THAT ANY SUIT SEEKING ENFORCEMENT AGAINST ANY COLLATERAL OR OTHER PROPERTY MAY BE BROUGHT, AT AGENT'S OPTION, IN THE COURTS OF ANY JURISDICTION WHERE AGENT ELECTS TO BRING SUCH ACTION OR WHERE SUCH COLLATERAL OR OTHER PROPERTY MAY BE FOUND. EACH GRANTOR AND AGENT WAIVE, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, ANY RIGHT EACH MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS SECTION 25(b).

(c) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EACH GRANTOR AND AGENT HEREBY WAIVE THEIR RESPECTIVE RIGHTS, IF ANY, TO A JURY TRIAL OF ANY CLAIM, CONTROVERSY, DISPUTE OR CAUSE OF ACTION DIRECTLY OR INDIRECTLY BASED UPON OR ARISING OUT OF THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREIN, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS (EACH A " CLAIM"). EACH GRANTOR AND AGENT REPRESENT THAT EACH HAS REVIEWED THIS WAIVER AND EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. IN THE EVENT OF LITIGATION, A COPY OF THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

(d) EACH GRANTOR HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF NEW YORK AND THE STATE OF NEW YORK, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT. 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. NOTHING IN THIS AGREEMENT SHALL AFFECT ANY RIGHT THAT AGENT MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT AGAINST ANY GRANTOR OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(e) NO CLAIM MAY BE MADE BY ANY GRANTOR AGAINST THE AGENT, THE SWING LENDER, ANY OTHER LENDER, ISSUING LENDER, OR THE UNDERLYING ISSUER, OR ANY AFFILIATE, DIRECTOR, OFFICER, EMPLOYEE, COUNSEL, REPRESENTATIVE, AGENT, OR ATTORNEY-IN-FACT OF ANY OF THEM FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES IN RESPECT OF ANY CLAIM FOR BREACH OF CONTRACT OR ANY OTHER THEORY OF LIABILITY ARISING OUT OF OR RELATED TO THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, OR ANY ACT, OMISSION, OR EVENT OCCURRING IN CONNECTION HEREWITH, AND EACH GRANTOR HEREBY WAIVES, RELEASES, AND AGREES NOT TO SUE UPON ANY CLAIM FOR SUCH DAMAGES, WHETHER OR NOT ACCRUED AND WHETHER OR NOT KNOWN OR SUSPECTED TO EXIST IN ITS FAVOR.

(f) IN THE EVENT ANY LEGAL PROCEEDING IS FILED IN A COURT OF THE STATE OF CALIFORNIA (THE "COURT") BY OR AGAINST ANY PARTY HERETO IN CONNECTION WITH ANY CLAIM AND THE WAIVER SET FORTH IN SECTION 25(c) ABOVE IS NOT ENFORCEABLE IN SUCH PROCEEDING, THE PARTIES HERETO AGREE AS FOLLOWS:

(i) WITH THE EXCEPTION OF THE MATTERS SPECIFIED IN SUBCLAUSE (ii) BELOW, ANY CLAIM SHALL BE DETERMINED BY A GENERAL REFERENCE PROCEEDING IN ACCORDANCE WITH THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 THROUGH 645.1. THE PARTIES INTEND THIS GENERAL REFERENCE AGREEMENT TO BE SPECIFICALLY ENFORCEABLE. VENUE FOR THE REFERENCE PROCEEDING SHALL BE IN THE COUNTY OF LOS ANGELES, CALIFORNIA.

(ii) THE FOLLOWING MATTERS SHALL NOT BE SUBJECT TO A GENERAL REFERENCE PROCEEDING: (A) NON-JUDICIAL FORECLOSURE OF ANY SECURITY INTERESTS IN REAL OR PERSONAL PROPERTY, (B) EXERCISE OF SELF-HELP REMEDIES (INCLUDING SET-OFF OR RECOUPMENT), (C) APPOINTMENT OF A RECEIVER, AND (D) TEMPORARY, PROVISIONAL, OR ANCILLARY REMEDIES (INCLUDING WRITS OF ATTACHMENT, WRITS OF POSSESSION, TEMPORARY RESTRAINING ORDERS, OR PRELIMINARY INJUNCTIONS). THIS AGREEMENT DOES NOT LIMIT THE RIGHT OF ANY PARTY TO EXERCISE OR OPPOSE ANY OF THE RIGHTS AND REMEDIES DESCRIBED IN CLAUSES (A) THROUGH (D) AND ANY SUCH EXERCISE OR OPPOSITION DOES NOT WAIVE THE RIGHT OF ANY PARTY TO PARTICIPATE IN A REFERENCE PROCEEDING PURSUANT TO THIS AGREEMENT WITH RESPECT TO ANY OTHER MATTER.

(iii) UPON THE WRITTEN REQUEST OF ANY PARTY, THE PARTIES SHALL SELECT A SINGLE REFEREE, WHO SHALL BE A RETIRED JUDGE OR JUSTICE. IF THE PARTIES DO NOT AGREE UPON A REFEREE WITHIN TEN DAYS OF SUCH WRITTEN REQUEST, THEN, ANY PARTY SHALL HAVE THE RIGHT TO REQUEST THE COURT TO APPOINT A REFEREE PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 640(B). THE REFEREE SHALL BE APPOINTED TO SIT WITH ALL OF THE POWERS PROVIDED BY LAW. PENDING APPOINTMENT OF THE REFEREE, THE COURT SHALL HAVE THE POWER TO ISSUE TEMPORARY OR PROVISIONAL REMEDIES.

(iv) EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE REFEREE SHALL DETERMINE THE MANNER IN WHICH THE REFERENCE PROCEEDING IS CONDUCTED INCLUDING THE TIME AND PLACE OF HEARINGS, THE ORDER OF PRESENTATION OF EVIDENCE, AND ALL OTHER QUESTIONS THAT ARISE WITH RESPECT TO THE COURSE OF THE REFERENCE PROCEEDING. ALL PROCEEDINGS AND HEARINGS CONDUCTED BEFORE THE REFEREE, EXCEPT FOR TRIAL, SHALL BE CONDUCTED WITHOUT A COURT REPORTER, EXCEPT WHEN ANY PARTY SO REQUESTS A COURT REPORTER AND A TRANSCRIPT IS ORDERED, A COURT REPORTER SHALL BE USED AND THE REFEREE SHALL BE PROVIDED A COURTESY COPY OF THE TRANSCRIPT. THE PARTY MAKING SUCH REQUEST SHALL HAVE THE OBLIGATION TO ARRANGE FOR AND PAY THE COSTS OF THE COURT REPORTER; PROVIDED, THAT SUCH COSTS, ALONG WITH THE REFEREE'S FEES, SHALL ULTIMATELY BE BORNE BY THE PARTY WHO DOES NOT PREVAIL, AS DETERMINED BY THE REFEREE.

(v) THE REFEREE MAY REQUIRE ONE OR MORE PREHEARING CONFERENCES. THE PARTIES HERETO SHALL BE ENTITLED TO DISCOVERY, AND THE REFEREE SHALL OVERSEE DISCOVERY IN ACCORDANCE WITH THE RULES OF DISCOVERY, AND SHALL ENFORCE ALL DISCOVERY ORDERS IN THE SAME MANNER AS ANY TRIAL COURT JUDGE IN PROCEEDINGS AT LAW IN THE STATE OF CALIFORNIA.

(vi) THE REFEREE SHALL APPLY THE RULES OF EVIDENCE APPLICABLE TO PROCEEDINGS AT LAW IN THE STATE OF CALIFORNIA AND SHALL DETERMINE ALL ISSUES IN ACCORDANCE WITH CALIFORNIA SUBSTANTIVE AND PROCEDURAL LAW. THE REFEREE SHALL BE EMPOWERED TO ENTER EQUITABLE AS WELL AS LEGAL RELIEF AND RULE ON ANY MOTION WHICH WOULD BE AUTHORIZED IN A TRIAL, INCLUDING MOTIONS FOR DEFAULT JUDGMENT OR SUMMARY JUDGMENT. THE REFEREE SHALL REPORT HIS OR HER DECISION, WHICH REPORT SHALL ALSO INCLUDE FINDINGS OF FACT AND CONCLUSIONS OF LAW. THE REFEREE SHALL ISSUE A DECISION AND PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE, SECTION 644, THE REFEREE'S DECISION SHALL BE ENTERED BY THE COURT AS A JUDGMENT IN THE SAME MANNER AS IF THE ACTION HAD BEEN TRIED BY THE COURT. THE FINAL JUDGMENT OR ORDER FROM ANY APPEALABLE DECISION OR ORDER ENTERED BY THE REFEREE SHALL BE FULLY APPEALABLE AS IF IT HAS BEEN ENTERED BY THE COURT.

(vii) THE PARTIES RECOGNIZE AND AGREE THAT ALL CLAIMS RESOLVED IN A GENERAL REFERENCE PROCEEDING PURSUANT HERETO WILL BE DECIDED BY A REFEREE AND NOT BY A JURY. AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR OWN CHOICE, EACH PARTY HERETO KNOWINGLY AND VOLUNTARILY AND FOR THEIR MUTUAL BENEFIT AGREES THAT THIS REFERENCE PROVISION SHALL APPLY TO ANY DISPUTE BETWEEN THEM THAT ARISES OUT OF OR IS RELATED TO THIS AGREEMENT.

26. New Subsidiaries. Pursuant to Section 5.12 of the Credit Agreement, certain Subsidiaries (whether by acquisition or creation) of any Grantor are required to enter into this Agreement by executing and delivering in favor of Agent a Joinder to this Agreement in substantially the form of Annex 1. Upon the execution and delivery of Annex 1 by any such new Subsidiary, such Subsidiary shall become a Guarantor and/or Grantor hereunder with the same force and effect as if originally named as a Guarantor and/or Grantor herein. The execution and delivery of any instrument adding an additional Guarantor or Grantor as a party to this Agreement shall not require the consent of any Guarantor or Grantor hereunder. The rights and obligations of each Guarantor and Grantor hereunder shall remain in full force and effect notwithstanding the addition of any new Guarantor or Grantor hereunder.

27. Agent. Each reference herein to any right granted to, benefit conferred upon or power exercisable by the "Agent" shall be a reference to Agent, for the benefit of each member of the Lender Group and each of the Bank Product Providers.

28. Miscellaneous.

(a) This Agreement is a Loan Document. This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same Agreement. Delivery of an executed counterpart of this Agreement by telefacsimile or other electronic method of transmission shall be equally as effective as delivery of an original executed counterpart of this Agreement. Any party delivering an executed counterpart of this Agreement by telefacsimile or other electronic method of transmission also shall deliver an original executed counterpart of this Agreement but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement. The foregoing shall apply to each other Loan Document *mutatis mutandis.*

(b) Any provision of this Agreement which is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof in that jurisdiction or affecting the validity or enforceability of such provision in any other jurisdiction. Each provision of this Agreement shall be severable from every other provision of this Agreement for the purpose of determining the legal enforceability of any specific provision.

(c) Headings and numbers have been set forth herein for convenience only. Unless the contrary is compelled by the context, everything contained in each Section applies equally to this entire Agreement.

(d) Neither this Agreement nor any uncertainty or ambiguity herein shall be construed against any member of the Lender Group, any Bank Product Provider, or any Grantor, whether under any rule of construction or otherwise. This Agreement has been reviewed by all parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to accomplish fairly the purposes and intentions of all parties hereto.

[*Remainder of Page Left Intentionally Blank; Signature Pages Follow.*]

IN WITNESS WHEREOF, the undersigned parties hereto have caused this Agreement to be executed and delivered as of the day and year first above written.

GRANTORS:

CONCRETE PUMPING HOLDINGS ACQUISITION CORP. (TO BE RENAMED CONCRETE PUMPING HOLDINGS, INC. UPON CONSUMMATION OF THE CONCRETE PUMPING ACQUISITION)

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer

CONCRETE PUMPING INTERMEDIATE ACQUISITION CORP.

By: /s/ Tariq Osman
Name: Tariq Osman
Title: President

CONCRETE PUMPING MERGER SUB INC. (TO BE MERGED WITH AND INTO CONCRETE PUMPING HOLDINGS, INC. UPON CONSUMMATION OF THE CONCRETE PUMPING ACQUISITION)

By: /s/ Tariq Osman
Name: Tariq Osman
Title: President

GRANTORS (CONT'D):

INDUSTREA ACQUISITION CORP.

By: /s/ Tariq Osman
Name: Tariq Osman
Title: Executive Vice President

CONCRETE PUMPING HOLDINGS, INC. (TO BE RENAMED BRUNDAGE-BONE CONCRETE PUMPING HOLDINGS INC. UPON CONSUMMATION OF THE CONCRETE PUMPING ACQUISITION)

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer, Secretary and Treasurer

CONCRETE PUMPING INTERMEDIATE HOLDINGS, LLC

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer, Secretary and Treasurer

BRUNDAGE-BONE CONCRETE PUMPING, INC.

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer, Secretary and Treasurer

ECO-PAN, INC.

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer, Secretary and Treasurer

AGENT:

WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, As Agent

By: /s/ Kathryn A. Scharre
Name: Kathryn A. Scharre
Title: Its Authorized Signatory

SCHEDULE 1

COMMERCIAL TORT CLAIMS

[include specific case caption or descriptions per Official Code Comment 5 to Section 9-108 of the Code]

SCHEDULE 2

COPYRIGHTS

SCHEDULE 3

INTELLECTUAL PROPERTY LICENSES

SCHEDULE 4

PATENTS

SCHEDULE 5

PLEDGED COMPANIES

Name of Grantor	Name of Pledged Company	Number of Shares/Units	Class of Interests	Percentage of Class Owned	Percentage of Class Pledged	Certificate Nos.

SCHEDULE 6

TRADEMARKS

SCHEDULE 7

NAME; CHIEF EXECUTIVE OFFICE; TAX IDENTIFICATION NUMBERS AND ORGANIZATIONAL NUMBERS

Name	Jurisdiction of Organization	Chief Executive Office	Tax Identification Number	Organizational Number

SCHEDULE 8

OWNED REAL PROPERTY

SCHEDULE 9

DEPOSIT ACCOUNTS AND SECURITIES ACCOUNTS

SCHEDULE 10

CONTROLLED ACCOUNT BANKS

Wells Fargo Bank, National Association

SCHEDULE 11

LIST OF UNIFORM COMMERCIAL CODE FILING JURISDICTIONS

Grantor	Jurisdictions

SCHEDULE 12

MOTOR VEHICLES

Attach table with auto vehicles

SCHEDULE 13

MATERIAL REAL PROPERTY

ANNEX 1 TO US GUARANTY AND SECURITY AGREEMENT
FORM OF JOINDER

Joinder No. ____ (this "Joinder"), dated as of _____ 20____, to the US Guaranty and Security Agreement, dated as of December 6, 2018 (as amended, restated, supplemented, or otherwise modified from time to time, the "Guaranty and Security Agreement"), by and among each of the parties listed on the signature pages thereto and those additional entities that thereafter become parties thereto (collectively, jointly and severally, "Grantors" and each, individually, a "Grantor") and **WELLS FARGO BANK, NATIONAL ASSOCIATION,** national banking association, in its capacity as administrative agent for each member of the Lender Group and the Bank Product Providers (in such capacity, together with its successors and assigns in such capacity, "Agent").

WITNESSETH:

WHEREAS, pursuant to that certain Credit Agreement, of even date herewith (as amended, restated, supplemented, or otherwise modified from time to time, the "Credit Agreement"), by and among **INDUSTREA ACQUISITION CORP.** , a Delaware corporation, **CONCRETE PUMPING HOLDINGS ACQUISITION CORP.** (to be renamed Concrete Pumping Holdings, Inc. upon consummation of the Concrete Pumping Acquisition (as defined in the Credit Agreement), a Delaware corporation, **CONCRETE PUMPING INTERMEDIATE ACQUISITION CORP.** , a Delaware corporation, **CONCRETE PUMPING MERGER SUB INC.**, a Delaware corporation ("Concrete Merger Sub"), which upon the consummation of the Concrete Pumping Acquisition will be merged with and into the existing **CONCRETE PUMPING HOLDINGS, INC.**, a Delaware corporation (which is to be renamed Brundage-Bone Concrete Pumping Holdings Inc. upon consummation of the Concrete Pumping Acquisition) (the "Target"), **BRUNDAGE-BONE CONCRETE PUMPING, INC.**, a Colorado corporation ("Brundage Pumping"), and **ECO-PAN, INC.** , a Colorado corporation ("Eco-Pan US"; and together with Concrete Merger Sub, the Target, Brundage Pumping and each other Person that from time to time that becomes party thereto as a US Borrower in accordance with the terms thereof, each a "US Borrower" and collectively the "US Borrowers") , **CAMFAUD CONCRETE PUMPS LIMITED**, a private limited company incorporated and registered under the laws of England and Wales with Company Number 02635232 ("Camfaud Concrete") and **PREMIER CONCRETE PUMPING LIMITED**, a private limited company incorporated and registered under the laws of England and Wales with Company Number 01714938 ("Premier Concrete", and together Camfaud Concrete and together with those additional entities that become parties thereto as "UK Borrowers" in accordance with the terms thereof, each a "UK Borrower", and collectively, the "UK Borrowers"; UK Borrowers and US Borrowers are each hereinafter referred to as a "Borrower", and collectively, the "Borrowers"), the lenders party thereto as "Lenders" (each of such Lenders, together with its successors and assigns, is referred to hereinafter as a "Lender"), Agent, and **WELLS FARGO CAPITAL FINANCE (UK) LIMITED** , a private limited company incorporated and registered under the laws of England a Wales with company numbers 02656007 (in such capacity, together with its successors and assigns in such capacity, "UK Security Agent"), the Lender Group has agreed to make certain financial accommodations available to Borrowers from time to time pursuant to the terms and conditions thereof;

WHEREAS, initially capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Guaranty and Security Agreement or, if not defined therein, in the Credit Agreement, and this Joinder shall be subject to the rules of construction set forth in Section 1(b) of the Guaranty and Security Agreement, which rules of construction are incorporated herein by this reference, *mutatis mutandis;*

WHEREAS, Grantors have entered into the Guaranty and Security Agreement in order to induce the Lender Group and the Bank Product Providers to make certain financial accommodations to Borrowers as provided for in the Credit Agreement, the other Loan Documents, and the Bank Product Agreements;

WHEREAS, pursuant to Section 5.12 of the Credit Agreement and Section 26 of the Guaranty and Security Agreement, certain Subsidiaries of the Loan Parties, must execute and deliver certain Loan Documents, including the Guaranty and Security Agreement, and the joinder to the Guaranty and Security Agreement by the undersigned new Grantor or Grantors (collectively, the "New Grantors") may be accomplished by the execution of this Joinder in favor of Agent, for the benefit of the Lender Group and the Bank Product Providers; and

WHEREAS, each New Grantor (a) is [an Affiliate] [a Subsidiary] of Borrowers and, as such, will benefit by virtue of the financial accommodations extended to Borrowers by the Lender Group or the Bank Product Providers, and (b) by becoming a Grantor will benefit from certain rights granted to the Grantors pursuant to the terms of the Loan Documents and the Bank Product Agreements;

NOW, THEREFORE, for and in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each New Grantor hereby agrees as follows:

1. In accordance with Section 26 of the Guaranty and Security Agreement, each New Grantor, by its signature below, becomes a "Grantor" [and "Guarantor"][1] under the Guaranty and Security Agreement with the same force and effect as if originally named therein as a "Grantor" [and "Guarantor"] and each New Grantor hereby (a) agrees to all of the terms and provisions of the Guaranty and Security Agreement applicable to it as a "Grantor" [or "Guarantor"] thereunder, and (b) represents and warrants that the representations and warranties made by it as a "Grantor" [or "Guarantor"] thereunder are true and correct in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that are already qualified or modified by materiality in the text thereof) on and as of the date hereof. In furtherance of the foregoing, each New Grantor hereby [(i) jointly and severally unconditionally and irrevocably guarantees as a primary obligor and not merely as a surety the full and prompt payment when due, whether upon maturity, acceleration, or otherwise, of all of the Guarantied Obligations, and (ii)] unconditionally grants, assigns, and pledges to Agent, for the benefit of the Lender Group and the Bank Product Providers, to secure the Secured Obligations, a continuing security interest in and to all of such New Grantor's right, title and interest in and to the Collateral (as defined in Section 3 of the Guaranty and Security Agreement). Each reference to a "Grantor" [or "Guarantor"] in the Guaranty and Security Agreement shall be deemed to include each New Grantor. The Guaranty and Security Agreement is incorporated herein by reference.

2. Schedule 1, "Commercial Tort Claims", Schedule 2, "Copyrights", Schedule 3, "Intellectual Property Licenses", Schedule 4, "Patents", Schedule 5, "Pledged Companies", Schedule 6, "Trademarks", Schedule 7, Name; Chief Executive Office; Tax Identification Numbers and Organizational Numbers, Schedule 8, "Owned Real Property", Schedule 9, "Deposit Accounts and Securities Accounts", Schedule 10, "Controlled Account Banks", Schedule 11, "List of Uniform Commercial Code Filing Jurisdictions", Schedule 12, "Motor Vehicles" and Schedule 13, "Material Real Property" attached hereto supplement Schedule 1, Schedule 2, Schedule 3, Schedule 4, Schedule 5, Schedule 6, Schedule 7, Schedule 8, Schedule 9, Schedule 10, Schedule 11, Schedule 12 and Schedule 13 respectively, to the Guaranty and Security Agreement and shall be deemed a part thereof for all purposes of the Guaranty and Security Agreement.

[1] If new Grantor is a Borrower, provision may not be included.

3. Each New Grantor authorizes Agent at any time and from time to time to file, transmit, or communicate, as applicable, financing statements and amendments thereto (a) describing the Collateral as "all personal property of debtor" or "all assets of debtor" or words of similar effect, (b) describing the Collateral as being of equal or lesser scope or with greater detail, or (c) that contain any information required by part 5 of Article 9 of the Code for the sufficiency or filing office acceptance. Each New Grantor also hereby ratifies any and all financing statements or amendments previously filed by Agent in any jurisdiction in connection with the Loan Documents.

4. Each New Grantor represents and warrants to Agent, the Lender Group and the Bank Product Providers that this Joinder has been duly executed and delivered by such New Grantor and constitutes its legal, valid, and binding obligation, enforceable against it in accordance with its terms, except as enforceability thereof may be limited by bankruptcy, insolvency, reorganization, fraudulent transfer, moratorium, or other similar laws affecting creditors' rights generally and general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

5. This Joinder is a Loan Document. This Joinder may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same Joinder. Delivery of an executed counterpart of this Joinder by telefacsimile or other electronic method of transmission shall be equally as effective as delivery of an original executed counterpart of this Joinder. Any party delivering an executed counterpart of this Joinder by telefacsimile or other electronic method of transmission also shall deliver an original executed counterpart of this Joinder but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Joinder.

6. The Guaranty and Security Agreement, as supplemented hereby, shall remain in full force and effect.

7. THIS JOINDER SHALL BE SUBJECT TO THE PROVISIONS REGARDING CHOICE OF LAW AND VENUE, JURY TRIAL WAIVER, AND JUDICIAL REFERENCE SET FORTH IN SECTION 25 OF THE GUARANTY AND SECURITY AGREEMENT, AND SUCH PROVISIONS ARE INCORPORATED HEREIN BY THIS REFERENCE, *MUTATIS MUTANDIS.*

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Joinder to the US Guaranty and Security Agreement to be executed and delivered as of the day and year first above written.

NEW GRANTORS:

[NAME OF NEW GRANTOR]

By: _____
Name:
Title:

[NAME OF NEW GRANTOR]

By: _____
Name:
Title:

AGENT:

WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association

By: _____
Name:
Title:

[SIGNATURE PAGE TO JOINDER NO. ___ TO US GUARANTY AND SECURITY AGREEMENT]

EXHIBIT A

COPYRIGHT SECURITY AGREEMENT

This COPYRIGHT SECURITY AGREEMENT (this "Copyright Security Agreement") is made this ___ day of _____, 20__, by and among Grantors listed on the signature pages hereof (collectively, jointly and severally, "Grantors" and each individually "Grantor"), and **WELLS FARGO BANK, NATIONAL ASSOCIATION,** a national banking association ("Wells Fargo"), in its capacity as administrative agent for each member of the Lender Group and the Bank Product Providers (in such capacity, together with its successors and assigns in such capacity, "Agent").

WITNESSETH:

WHEREAS, pursuant to that certain Credit Agreement, dated as of December 6, 2018 (as amended, restated, supplemented, or otherwise modified from time to time, the "Credit Agreement"), by and among **INDUSTREA ACQUISITION CORP.** , a Delaware corporation, **CONCRETE PUMPING HOLDINGS ACQUISITION CORP.** (to be renamed Concrete Pumping Holdings, Inc. upon consummation of the Concrete Pumping Acquisition (as defined in the Credit Agreement), a Delaware corporation, **CONCRETE PUMPING INTERMEDIATE ACQUISITION CORP.** , a Delaware corporation, **CONCRETE PUMPING MERGER SUB INC.**, a Delaware corporation ("Concrete Merger Sub"), which upon the consummation of the Concrete Pumping Acquisition will be merged with and into the existing **CONCRETE PUMPING HOLDINGS, INC.**, a Delaware corporation (which is to be renamed Brundage-Bone Concrete Pumping Holdings Inc. upon consummation of the Concrete Pumping Acquisition) (the "Target"), **BRUNDAGE-BONE CONCRETE PUMPING, INC.**, a Colorado corporation ("Brundage Pumping"), and **ECO-PAN, INC.**, a Colorado corporation ("Eco-Pan US"; and together with Concrete Merger Sub, the Target, Brundage Pumping and each other Person that from time to time that becomes party thereto as a US Borrower in accordance with the terms thereof, each a "US Borrower" and collectively the "US Borrowers"), **CAMFAUD CONCRETE PUMPS LIMITED**, a private limited company incorporated and registered under the laws of England and Wales with Company Number 02635232 ("Camfaud Concrete") and **PREMIER CONCRETE PUMPING LIMITED**, a private limited company incorporated and registered under the laws of England and Wales with Company Number 01714938 ("Premier Concrete", and together Camfaud Concrete and together with those additional entities that become parties thereto as "UK Borrowers" in accordance with the terms thereof, each a "UK Borrower", and collectively, the "UK Borrowers"; UK Borrowers and US Borrowers are each hereinafter referred to as a "Borrower", and collectively, the "Borrowers"), the lenders party thereto as "Lenders" (each of such Lenders, together with its successors and assigns, is referred to hereinafter as a "Lender"), Agent, and **WELLS FARGO CAPITAL FINANCE (UK) LIMITED** , a private limited company incorporated and registered under the laws of England a Wales with company numbers 02656007 (in such capacity, together with its successors and assigns in such capacity, " UK Security Agent"), the Lender Group has agreed to make certain financial accommodations available to Borrowers from time to time pursuant to the terms and conditions thereof;

WHEREAS, the members of the Lender Group and the Bank Product Providers are willing to make the financial accommodations to Borrowers as provided for in the Credit Agreement, the other Loan Documents, and the Bank Product Agreements, but only upon the condition, among others, that Grantors shall have executed and delivered to Agent, for the benefit of the Lender Group and the Bank Product Providers, that certain US Guaranty and Security Agreement, dated as of December 6, 2018 (including all annexes, exhibits or schedules thereto, as from time to time amended, restated, supplemented or otherwise modified, the "Guaranty and Security Agreement"); and

WHEREAS, pursuant to the Guaranty and Security Agreement, Grantors are required to execute and deliver to Agent, for the benefit of the Lender Group and the Bank Product Providers, this Copyright Security Agreement;

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantors hereby agree as follows:

1. DEFINED TERMS. All initially capitalized terms used but not otherwise defined herein have the meanings given to them in the Guaranty and Security Agreement or, if not defined therein, in the Credit Agreement, and this Copyright Security Agreement shall be subject to the rules of construction set forth in Section 1(b) of the Guaranty and Security Agreement, which rules of construction are incorporated herein by this reference, *mutatis mutandis*.

2. GRANT OF SECURITY INTEREST IN COPYRIGHT COLLATERAL. Each Grantor hereby unconditionally grants, assigns, and pledges to Agent, for the benefit each member of the Lender Group and each of the Bank Product Providers, to secure the Secured Obligations, a continuing security interest (referred to in this Copyright Security Agreement as the "Security Interest") in all of such Grantor's right, title and interest in and to the following, whether now owned or hereafter acquired or arising (collectively, the "Copyright Collateral"):

(a) all of such Grantor's Copyrights and Copyright Intellectual Property Licenses to which it is a party including those referred to on Schedule I;

(b) all renewals or extensions of the foregoing; and

(c) all products and proceeds of the foregoing, including any claim by such Grantor against third parties for past, present or future infringement of any Copyright or any Copyright exclusively licensed under any Intellectual Property License, including the right to receive damages, or the right to receive license fees, royalties, and other compensation under any Copyright Intellectual Property License.

3. SECURITY FOR SECURED OBLIGATIONS. This Copyright Security Agreement and the Security Interest created hereby secures the payment and performance of the Secured Obligations, whether now existing or arising hereafter. Without limiting the generality of the foregoing, this Copyright Security Agreement secures the payment of all amounts which constitute part of the Secured Obligations and would be owed by Grantors, or any of them, to Agent, the other members of the Lender Group, the Bank Product Providers or any of them, whether or not they are unenforceable or not allowable due to the existence of an Insolvency Proceeding involving any Grantor.

4. SECURITY AGREEMENT. The Security Interest granted pursuant to this Copyright Security Agreement is granted in conjunction with the security interests granted to Agent, for the benefit of the Lender Group and the Bank Product Providers, pursuant to the Guaranty and Security Agreement. Each Grantor hereby acknowledges and affirms that the rights and remedies of Agent with respect to the Security Interest in the Copyright Collateral made and granted hereby are more fully set forth in the Guaranty and Security Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein. To the extent there is any inconsistency between this Copyright Security Agreement and the Guaranty and Security Agreement, the Guaranty and Security Agreement shall control.

5 . AUTHORIZATION TO SUPPLEMENT. Grantors shall give Agent prior written notice of no less than five (5) Business Days (or such shorter period as Agent may agree in its sole discretion) before filing any additional application for registration of any copyright and prompt notice in writing of any additional copyright registrations granted therefor after the date hereof. Without limiting Grantors' obligations under this Section, Grantors hereby authorize Agent unilaterally to modify this Copyright Security Agreement by amending Schedule I to include any future United States registered copyrights or applications therefor of each Grantor. Notwithstanding the foregoing, no failure to so modify this Copyright Security Agreement or amend Schedule I shall in any way affect, invalidate or detract from Agent's continuing security interest in all Collateral, whether or not listed on Schedule I.

6. COUNTERPARTS. This Copyright Security Agreement is a Loan Document. This Copyright Security Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same Copyright Security Agreement. Delivery of an executed counterpart of this Copyright Security Agreement by telefacsimile or other electronic method of transmission shall be equally as effective as delivery of an original executed counterpart of this Copyright Security Agreement. Any party delivering an executed counterpart of this Copyright Security Agreement by telefacsimile or other electronic method of transmission also shall deliver an original executed counterpart of this Copyright Security Agreement but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Copyright Security Agreement.

7 . CHOICE OF LAW AND VENUE, JURY TRIAL WAIVER, AND JUDICIAL REFERENCE PROVISION . THIS COPYRIGHT SECURITY AGREEMENT SHALL BE SUBJECT TO THE PROVISIONS REGARDING CHOICE OF LAW AND VENUE, JURY TRIAL WAIVER, AND JUDICIAL REFERENCE SET FORTH IN SECTION 25 OF THE GUARANTY AND SECURITY AGREEMENT, AND SUCH PROVISIONS ARE INCORPORATED HEREIN BY THIS REFERENCE, *MUTATIS MUTANDIS*.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Copyright Security Agreement to be executed and delivered as of the day and year first above written.

GRANTORS:

_____

By: _____
Name:
Title:

_____

By: _____
Name:
Title:

AGENT:

ACCEPTED AND ACKNOWLEDGED BY:

WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association

By: _____
Name:
Title:

SCHEDULE I
TO
COPYRIGHT SECURITY AGREEMENT

COPYRIGHT REGISTRATIONS

Grantor	Country	Copyright	Registration No.	Registration Date

Copyright Licenses

EXHIBIT B

PATENT SECURITY AGREEMENT

This PATENT SECURITY AGREEMENT (this "Patent Security Agreement") is made this _____ day of _____ 20_, by and among the Grantors listed on the signature pages hereof (collectively, jointly and severally, "Grantors" and each individually "Grantor"), and **WELLS FARGO BANK, NATIONAL ASSOCIATION** , a national banking association ("Wells Fargo"), in its capacity as administrative agent for each member of the Lender Group and the Bank Product Providers (in such capacity, together with its successors and assigns in such capacity, "Agent").

WITNESSETH:

WHEREAS, pursuant to that certain Credit Agreement, dated as of December 6, 2018 (as amended, restated, supplemented, or otherwise modified from time to time, the "Credit Agreement"), by and among **INDUSTREA ACQUISITION CORP.** , a Delaware corporation, **CONCRETE PUMPING HOLDINGS ACQUISITION CORP.** (to be renamed Concrete Pumping Holdings, Inc. upon consummation of the Concrete Pumping Acquisition (as defined in the Credit Agreement), a Delaware corporation, **CONCRETE PUMPING INTERMEDIATE ACQUISITION CORP.** , a Delaware corporation, **CONCRETE PUMPING MERGER SUB INC.**, a Delaware corporation ("Concrete Merger Sub"), which upon the consummation of the Concrete Pumping Acquisition will be merged with and into the existing **CONCRETE PUMPING HOLDINGS, INC.**, a Delaware corporation (which is to be renamed Brundage-Bone Concrete Pumping Holdings Inc. upon consummation of the Concrete Pumping Acquisition) (the "Target"), **BRUNDAGE-BONE CONCRETE PUMPING, INC.**, a Colorado corporation ("Brundage Pumping"), and **ECO-PAN, INC.**, a Colorado corporation ("Eco-Pan US"; and together with Concrete Merger Sub, the Target, Brundage Pumping and each other Person that from time to time that becomes party thereto as a US Borrower in accordance with the terms thereof, each a "US Borrower" and collectively the "US Borrowers"), **CAMFAUD CONCRETE PUMPS LIMITED**, a private limited company incorporated and registered under the laws of England and Wales with Company Number 02635232 ("Camfaud Concrete") and **PREMIER CONCRETE PUMPING LIMITED**, a private limited company incorporated and registered under the laws of England and Wales with Company Number 01714938 ("Premier Concrete", and together Camfaud Concrete and together with those additional entities that become parties thereto as "UK Borrowers" in accordance with the terms thereof, each a "UK Borrower", and collectively, the "UK Borrowers"; UK Borrowers and US Borrowers are each hereinafter referred to as a "Borrower", and collectively, the "Borrowers"), the lenders party thereto as "Lenders" (each of such Lenders, together with its successors and assigns, is referred to hereinafter as a "Lender"), Agent, and **WELLS FARGO CAPITAL FINANCE (UK) LIMITED** , a private limited company incorporated and registered under the laws of England a Wales with company numbers 02656007 (in such capacity, together with its successors and assigns in such capacity, "UK Security Agent"), the Lender Group has agreed to make certain financial accommodations available to Borrowers from time to time pursuant to the terms and conditions thereof;

WHEREAS, the members of the Lender Group and the Bank Product Providers are willing to make the financial accommodations to Borrowers as provided for in the Credit Agreement, the other Loan Documents, and the Bank Product Agreements, but only upon the condition, among others, that the Grantors shall have executed and delivered to Agent, for the benefit of the Lender Group and the Bank Product Providers, that certain US Guaranty and Security Agreement, dated as of December 6, 2018 (including all annexes, exhibits or schedules thereto, as from time to time amended, restated, supplemented or otherwise modified, the "Guaranty and Security Agreement"); and

WHEREAS, pursuant to the Guaranty and Security Agreement, Grantors are required to execute and deliver to Agent, for the benefit of the Lender Group and the Bank Product Providers, this Patent Security Agreement;

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Grantor hereby agrees as follows:

1. DEFINED TERMS. All initially capitalized terms used but not otherwise defined herein have the meanings given to them in the Guaranty and Security Agreement or, if not defined therein, in the Credit Agreement, and this Patent Security Agreement shall be subject to the rules of construction set forth in Section 1(b) of the Guaranty and Security Agreement, which rules of construction are incorporated herein by this reference, *mutatis mutandis*.

2. GRANT OF SECURITY INTEREST IN PATENT COLLATERAL. Each Grantor hereby unconditionally grants, assigns, and pledges to Agent, for the benefit each member of the Lender Group and each of the Bank Product Providers, to secure the Secured Obligations, a continuing security interest (referred to in this Patent Security Agreement as the "Security Interest") in all of such Grantor's right, title and interest in and to the following, whether now owned or hereafter acquired or arising (collectively, the "Patent Collateral"):

(a) all of its Patents and Patent Intellectual Property Licenses to which it is a party including those referred to on Schedule I;

(b) all divisionals, continuations, continuations-in-part, reissues, reexaminations, or extensions of the foregoing; and

(c) all products and proceeds of the foregoing, including any claim by such Grantor against third parties for past, present or future infringement of any Patent or any Patent exclusively licensed under any Intellectual Property License, including the right to receive damages, or right to receive license fees, royalties, and other compensation under any Patent Intellectual Property License.

3. SECURITY FOR SECURED OBLIGATIONS. This Patent Security Agreement and the Security Interest created hereby secures the payment and performance of the Secured Obligations, whether now existing or arising hereafter. Without limiting the generality of the foregoing, this Patent Security Agreement secures the payment of all amounts which constitute part of the Secured Obligations and would be owed by Grantors, or any of them, to Agent, the other members of the Lender Group, the Bank Product Providers or any of them, whether or not they are unenforceable or not allowable due to the existence of an Insolvency Proceeding involving any Grantor.

4. SECURITY AGREEMENT. The Security Interest granted pursuant to this Patent Security Agreement is granted in conjunction with the security interests granted to Agent, for the benefit of the Lender Group and the Bank Product Providers, pursuant to the Guaranty and Security Agreement. Each Grantor hereby acknowledges and affirms that the rights and remedies of Agent with respect to the Security Interest in the Patent Collateral made and granted hereby are more fully set forth in the Guaranty and Security Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein. To the extent there is any inconsistency between this Patent Security Agreement and the Guaranty and Security Agreement, the Guaranty and Security Agreement shall control.

5. AUTHORIZATION TO SUPPLEMENT. If any Grantor shall obtain rights to any new patent application or issued patent or become entitled to the benefit of any patent application or patent for any divisional, continuation, continuation-in-part, reissue, or reexamination of any existing patent or patent application, the provisions of this Patent Security Agreement shall automatically apply thereto. Grantors shall give prompt notice in writing to Agent with respect to any such new patent rights. Without limiting Grantors' obligations under this Section, Grantors hereby authorize Agent unilaterally to modify this Patent Security Agreement by amending Schedule I to include any such new patent rights of each Grantor. Notwithstanding the foregoing, no failure to so modify this Patent Security Agreement or amend Schedule I shall in any way affect, invalidate or detract from Agent's continuing security interest in all Collateral, whether or not listed on Schedule I.

6. COUNTERPARTS. This Patent Security Agreement is a Loan Document. This Patent Security Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same Patent Security Agreement. Delivery of an executed counterpart of this Patent Security Agreement by telefacsimile or other electronic method of transmission shall be equally as effective as delivery of an original executed counterpart of this Patent Security Agreement. Any party delivering an executed counterpart of this Patent Security Agreement by telefacsimile or other electronic method of transmission also shall deliver an original executed counterpart of this Patent Security Agreement but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Patent Security Agreement.

7. CHOICE OF LAW AND VENUE, JURY TRIAL WAIVER, AND JUDICIAL REFERENCE PROVISION. THIS PATENT SECURITY AGREEMENT SHALL BE SUBJECT TO THE PROVISIONS REGARDING CHOICE OF LAW AND VENUE, JURY TRIAL WAIVER, AND JUDICIAL REFERENCE SET FORTH IN SECTION 25 OF THE GUARANTY AND SECURITY AGREEMENT, AND SUCH PROVISIONS ARE INCORPORATED HEREIN BY THIS REFERENCE, *MUTATIS MUTANDIS.*

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Patent Security Agreement to be executed and delivered as of the day and year first above written.

GRANTORS:

_____

By: _____
Name:
Title:

_____

By: _____
Name:
Title:

AGENT:

ACCEPTED AND ACKNOWLEDGED BY:

WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association

By: _____
Name:
Title:

SCHEDULE I

to

PATENT SECURITY AGREEMENT

Patents

Grantor	Country	Patent	Application/ Patent No.	Filing Date

Patent Licenses

EXHIBIT C

PLEDGED INTERESTS ADDENDUM

This Pledged Interests Addendum, dated as of _____, 20__ (this "Pledged Interests Addendum"), is delivered pursuant to Section 7 of the Guaranty and Security Agreement referred to below. The undersigned hereby agrees that this Pledged Interests Addendum may be attached to that certain US Guaranty and Security Agreement, dated as of December 6, 2018, (as amended, restated, supplemented, or otherwise modified from time to time, the "Guaranty and Security Agreement"), made by the undersigned, together with the other Grantors named therein, to **WELLS FARGO BANK, NATIONAL ASSOCIATION,** a national banking association, as Agent. Initially capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Guaranty and Security Agreement or, if not defined therein, in the Credit Agreement, and this Pledged Interests Addendum shall be subject to the rules of construction set forth in Section 1(b) of the Guaranty and Security Agreement, which rules of construction are incorporated herein by this reference, *mutatis mutandis.* The undersigned hereby agrees that the additional interests listed on Schedule I shall be and become part of the Pledged Interests pledged by the undersigned to Agent in the Guaranty and Security Agreement and any pledged company set forth on Schedule I shall be and become a "Pledged Company" under the Guaranty and Security Agreement, each with the same force and effect as if originally named therein.

This Pledged Interests Addendum is a Loan Document. Delivery of an executed counterpart of this Pledged Interests Addendum by telefacsimile or other electronic method of transmission shall be equally as effective as delivery of an original executed counterpart of this Pledged Interests Addendum. If the undersigned delivers an executed counterpart of this Pledged Interests Addendum by telefacsimile or other electronic method of transmission, the undersigned shall also deliver an original executed counterpart of this Pledged Interests Addendum but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Pledged Interests Addendum.

The undersigned hereby certifies that the representations and warranties set forth in Section 6 of the Guaranty and Security Agreement of the undersigned are true and correct as to the Pledged Interests listed herein on and as of the date hereof.

THIS PLEDGED INTERESTS ADDENDUM SHALL BE SUBJECT TO THE PROVISIONS REGARDING CHOICE OF LAW AND VENUE, JURY TRIAL WAIVER, AND JUDICIAL REFERENCE SET FORTH IN SECTION 25 OF THE GUARANTY AND SECURITY AGREEMENT, AND SUCH PROVISIONS ARE INCORPORATED HEREIN BY THIS REFERENCE, *MUTATIS MUTANDIS.*

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned has caused this Pledged Interests Addendum to be executed and delivered as of the day and year first above written.

By: _____
Name:
Title:

SCHEDULE I

TO

PLEDGED INTERESTS ADDENDUM

Pledged Interests

Name of Grantor	Name of Pledged Company	Number of Shares/Units	Class of Interests	Percentage of Class Owned	Certificate Nos.

EXHIBIT D

TRADEMARK SECURITY AGREEMENT

This TRADEMARK SECURITY AGREEMENT (this "Trademark Security Agreement") is made this ____ day of _____, 20___, by and among Grantors listed on the signature pages hereof (collectively, jointly and severally, "Grantors" and each individually "Grantor"), and **WELLS FARGO BANK, NATIONAL ASSOCIATION,** a national banking association ("Wells Fargo"), in its capacity as administrative agent for the Lender Group and the Bank Product Providers (in such capacity, together with its successors and assigns in such capacity, "Agent").

WITNESSETH:

WHEREAS, pursuant to that certain Credit Agreement, dated as of December 6, 2018 (as amended, restated, supplemented, or otherwise modified from time to time, the "Credit Agreement"), by and among **INDUSTREA ACQUISITION CORP.** , a Delaware corporation, **CONCRETE PUMPING HOLDINGS ACQUISITION CORP.** (to be renamed Concrete Pumping Holdings, Inc. upon consummation of the Concrete Pumping Acquisition (as defined in the Credit Agreement), a Delaware corporation, **CONCRETE PUMPING INTERMEDIATE ACQUISITION CORP.** , a Delaware corporation, **CONCRETE PUMPING MERGER SUB INC.**, a Delaware corporation ("Concrete Merger Sub"), which upon the consummation of the Concrete Pumping Acquisition will be merged with and into the existing **CONCRETE PUMPING HOLDINGS, INC.**, a Delaware corporation (which is to be renamed Brundage-Bone Concrete Pumping Holdings Inc. upon consummation of the Concrete Pumping Acquisition) (the "Target"), **BRUNDAGE-BONE CONCRETE PUMPING, INC.**, a Colorado corporation ("Brundage Pumping"), and **ECO-PAN, INC.**, a Colorado corporation ("Eco-Pan US"; and together with Concrete Merger Sub, the Target, Brundage Pumping and each other Person that from time to time that becomes party thereto as a US Borrower in accordance with the terms thereof, each a "US Borrower" and collectively the "US Borrowers"), **CAMFAUD CONCRETE PUMPS LIMITED**, a private limited company incorporated and registered under the laws of England and Wales with Company Number 02635232 ("Camfaud Concrete") and **PREMIER CONCRETE PUMPING LIMITED**, a private limited company incorporated and registered under the laws of England and Wales with Company Number 01714938 ("Premier Concrete", and together Camfaud Concrete and together with those additional entities that become parties thereto as "UK Borrowers" in accordance with the terms thereof, each a "UK Borrower", and collectively, the "UK Borrowers"; UK Borrowers and US Borrowers are each hereinafter referred to as a "Borrower", and collectively, the "Borrowers"), the lenders party thereto as "Lenders" (each of such Lenders, together with its successors and assigns, is referred to hereinafter as a "Lender"), Agent, and **WELLS FARGO CAPITAL FINANCE (UK) LIMITED** , a private limited company incorporated and registered under the laws of England a Wales with company numbers 02656007 (in such capacity, together with its successors and assigns in such capacity, " UK Security Agent"), the Lender Group has agreed to make certain financial accommodations available to Borrowers from time to time pursuant to the terms and conditions thereof;

WHEREAS, the members of the Lender Group and the Bank Product Providers are willing to make the financial accommodations to Borrowers as provided for in the Credit Agreement, the other Loan Documents, and the Bank Product Agreements, but only upon the condition, among others, that Grantors shall have executed and delivered to Agent, for the benefit of Lender Group and the Bank Product Providers, that certain US Guaranty and Security Agreement, dated as of December 6, 2018 (including all annexes, exhibits or schedules thereto, as from time to time amended, restated, supplemented or otherwise modified, the "Guaranty and Security Agreement"); and

WHEREAS, pursuant to the Guaranty and Security Agreement, Grantors are required to execute and deliver to Agent, for the benefit of the Lender Group and the Bank Product Providers, this Trademark Security Agreement;

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Grantor hereby agrees as follows:

1. DEFINED TERMS. All initially capitalized terms used but not otherwise defined herein have the meanings given to them in the Guaranty and Security Agreement or, if not defined therein, in the Credit Agreement, and this Trademark Security Agreement shall be subject to the rules of construction set forth in Section 1(b) of the Guaranty and Security Agreement, which rules of construction are incorporated herein by this reference, mutatis mutandis.

2. GRANT OF SECURITY INTEREST IN TRADEMARK COLLATERAL. Each Grantor hereby unconditionally grants, assigns, and pledges to Agent, for the benefit of each member of the Lender Group and each of the Bank Product Providers, to secure the Secured Obligations, a continuing security interest (referred to in this Trademark Security Agreement as the "Security Interest") in all of such Grantor's right, title and interest in and to the following, whether now owned or hereafter acquired or arising (collectively, the "Trademark Collateral"):

(a) all of its Trademarks and Trademark Intellectual Property Licenses to which it is a party including those referred to on Schedule I;

(b) all goodwill of the business connected with the use of, and symbolized by, each Trademark and each Trademark Intellectual Property License; and

(c) all products and proceeds (as that term is defined in the Code) of the foregoing, including any claim by such Grantor against third parties for past, present or future (i) infringement or dilution of any Trademark or any Trademarks exclusively licensed under any Intellectual Property License, including right to receive any damages, (ii) injury to the goodwill associated with any Trademark, or (iii) right to receive license fees, royalties, and other compensation under any Trademark Intellectual Property License.

2. SECURITY FOR SECURED OBLIGATIONS. This Trademark Security Agreement and the Security Interest created hereby secures the payment and performance of the Secured Obligations, whether now existing or arising hereafter. Without limiting the generality of the foregoing, this Trademark Security Agreement secures the payment of all amounts which constitute part of the Secured Obligations and would be owed by Grantors, or any of them, to Agent, the other members of the Lender Group, the Bank Product Providers or any of them, whether or not they are unenforceable or not allowable due to the existence of an Insolvency Proceeding involving any Grantor.

3. SECURITY AGREEMENT. The Security Interest granted pursuant to this Trademark Security Agreement is granted in conjunction with the security interests granted to Agent, for the benefit of the Lender Group and the Bank Product Providers, pursuant to the Guaranty and Security Agreement. Each Grantor hereby acknowledges and affirms that the rights and remedies of Agent with respect to the Security Interest in the Trademark Collateral made and granted hereby are more fully set forth in the Guaranty and Security Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein. To the extent there is any inconsistency between this Trademark Security Agreement and the Guaranty and Security Agreement, the Guaranty and Security Agreement shall control.

4 . AUTHORIZATION TO SUPPLEMENT. If any Grantor shall obtain rights to any new trademarks, the provisions of this Trademark Security Agreement shall automatically apply thereto. Grantors shall give prompt notice in writing to Agent with respect to any such new trademarks or renewal or extension of any trademark registration. Without limiting Grantors' obligations under this Section, Grantors hereby authorize Agent unilaterally to modify this Trademark Security Agreement by amending Schedule I to include any such new trademark rights of each Grantor. Notwithstanding the foregoing, no failure to so modify this Trademark Security Agreement or amend Schedule I shall in any way affect, invalidate or detract from Agent's continuing security interest in all Collateral, whether or not listed on Schedule I.

5 . COUNTERPARTS. This Trademark Security Agreement is a Loan Document. This Trademark Security Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same Trademark Security Agreement. Delivery of an executed counterpart of this Trademark Security Agreement by telefacsimile or other electronic method of transmission shall be equally as effective as delivery of an original executed counterpart of this Trademark Security Agreement. Any party delivering an executed counterpart of this Trademark Security Agreement by telefacsimile or other electronic method of transmission also shall deliver an original executed counterpart of this Trademark Security Agreement but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Trademark Security Agreement.

6 . CHOICE OF LAW AND VENUE, JURY TRIAL WAIVER, AND JUDICIAL REFERENCE PROVISION . THIS TRADEMARK SECURITY AGREEMENT SHALL BE SUBJECT TO THE PROVISIONS REGARDING CHOICE OF LAW AND VENUE, JURY TRIAL WAIVER, AND JUDICIAL REFERENCE SET FORTH IN SECTION 25 OF THE GUARANTY AND SECURITY AGREEMENT, AND SUCH PROVISIONS ARE INCORPORATED HEREIN BY THIS REFERENCE, *MUTATIS MUTANDIS.*

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Trademark Security Agreement to be executed and delivered as of the day and year first above written.

GRANTORS:

_____

By: _____
Name:
Title:

_____

By: _____
Name:
Title:

AGENT:

ACCEPTED AND ACKNOWLEDGED BY:

WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association

By: _____
Name:
Title:

SCHEDULE I

to

TRADEMARK SECURITY AGREEMENT

Trademark Registrations/Applications

Grantor	Country	Mark	Application/ Registration No.	App/Reg Date

Trade Names

Common Law Trademarks

Trademarks Not Currently In Use

Trademark Licenses

Exhibit 10.32

EXECUTION VERSION

Dated 6 December 2018

CAMFAUD GROUP LIMITED AND OTHERS
as Chargors and Guarantors

and

WELLS FARGO CAPITAL FINANCE (UK) LIMITED
as UK Security Agent

UK Debenture

Morgan Lewis
Condor House
5-10 St. Paul's Churchyard
London EC4M 8AL
Tel. +44 (0)20 3201 5000
Fax: +44 (0)20 3201 5001
www.morganlewis.com

Contents

THIS DEED OF DEBENTURE is dated 6 December 2018

Between:

(1) **CAMFAUD GROUP LIMITED** registered in England with number 10473517 (the **Company**);

(2) **THE COMPANIES** identified in Part 1 of Schedule 1 (*The Chargors*) (together with the Company and each person which becomes a party to this Deed by executing a Deed of Accession, each a **Chargor** and together the **Chargors**);

(3) **THE COMPANIES** identified in Part 2 of Schedule 1 (*The Guarantors*) (together with the Company and each person which becomes a party to this Deed by executing a Guarantor Accession Letter, each a **Guarantor** and together the **Guarantors**); and

(4) **WELLS FARGO CAPITAL FINANCE (UK) LIMITED** registered in England with number 2656007, as agent and trustee for the Secured Parties (the **UK Security Agent**).

Recitals

(A) The Chargors enter into this Deed to secure the repayment and satisfaction of the Secured Liabilities.

(B) The Guarantors enter this Deed to guarantee the repayment and satisfaction of the Secured Liabilities.

(C) The Chargors and the UK Security Agent intend that this document take effect as a deed notwithstanding that it may be executed under hand.

It is agreed:

1 Definitions and Interpretation

1.1 Definitions

In this Deed:

Act means the Law of Property Act 1925.

Blocked Accounts means the bank accounts of the Chargors specified in Part I (*Blocked Accounts*) of Schedule 5 (*Charged Accounts*) and/or specified as "Blocked Accounts" in the Schedule to any Deed of Accession and/or such other bank accounts of the Chargors as the UK Security Agent may designate or approve.

Book Debts means:

(a) all book and other debts in existence from time to time (including, without limitation, any sums whatsoever owed by banks or similar institutions) both present and future, actual or contingent, due, owing to or which may become due, owing to or purchased or otherwise acquired by any Chargor; and

(b) the benefit of all rights whatsoever relating to the debts referred to in (a) above including, without limitation, any related agreements, documents, rights and remedies (including, without limitation, negotiable or non-negotiable instruments, guarantees, indemnities, legal and equitable charges, reservation of proprietary rights, rights of tracing, unpaid vendor's liens and all similar connected or related rights and assets).

Charged Accounts means the Blocked Accounts and the Other Accounts.

Credit Agreement means the credit agreement dated on or about the date of this Deed and made between, among others, Concrete Pumping Holdings Acquisition Corp., Wells Fargo Bank, National Association as agent and the lenders that are party thereto.

Deed of Accession means a deed of accession substantially in the form set out in Schedule 7 (*Deed of Accession*).

Distribution Rights means all allotments, accretions, offers, options, rights, bonuses, benefits and advantages, whether by way of conversion, redemption, preference, option or otherwise which at any time accrue to or are offered or arise in respect of any Investments or Shares, and includes all dividends, interest and other distributions paid or payable on or in respect of them.

Equipment means each Chargor's fixed and moveable plant, machinery, tools, vehicles, computers and office and other equipment and the benefit of all related authorisations, agreements and warranties.

Guarantor Accession Letter means a letter substantially in the form set out in Schedule 10 (*Form of Guarantor Accession Letter*).

Immaterial Subsidiary Shares means any shares held by the Company in Eco-Pan Limited, South Coast Concrete Pumping Limited and Reilly Concrete Pumping Limited.

Insurance means the interest of each Chargor in each contract or policy of insurance to which a Chargor is a party or in which it otherwise has an interest.

Intellectual Property Rights means:

(a) any patents, trademarks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered; and

(b) the benefit of all applications and rights to use such assets of each Chargor (which may now or in the future subsist).

Investments means all or any stocks, shares, bonds and securities of any kind (marketable or otherwise), negotiable instruments and warrants and any other financial instruments (as defined in the Regulations).

Land has the same meaning as it has in section 205(1) of the Act.

Other Accounts means the bank accounts of the Chargors specified in Part II (*Other Accounts*) of Schedule 5 (*Charged Accounts*) and/or specified as "Other Accounts" in the Schedule to any Deed of Accession and/or such other bank accounts of the Chargors as the UK Security Agent may designate or approve.

PSC register means a register of persons with significant control required pursuant to section 790M of the Companies Act 2006.

Receiver means a receiver appointed pursuant to this Deed or to any applicable law, whether alone or jointly, and includes a receiver and/or manager and, if the UK Security Agent is permitted by law to appoint an administrative receiver, includes an administrative receiver.

Regulations means the Financial Collateral Arrangements (No 2) Regulations 2003 (S.I. 2003/3226) or equivalent legislation in any applicable jurisdiction bringing into effect Directive 2002/47/EC on financial collateral arrangements, and Regulation means any of them.

Restrictions Notice means a "restrictions notice" as defined in paragraph 1(2) of Schedule 1B of the Companies Act 2006.

Secured Liabilities means (a) all loans (including the UK Revolving Loans) debts, principal, interest (including any interest that accrues after the commencement of an Insolvency Proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any such Insolvency Proceeding), reimbursement or indemnification obligations with respect to Letters of Credit issued for the account of UK Borrowers (irrespective of whether contingent), premiums, liabilities (including all amounts charged to the UK Loan Account pursuant to the Credit Agreement), obligations (including indemnification obligations) of any UK Loan Party, fees (including the fees provided for in the Fee Letter) of any UK Loan Party, Lender Group Expenses (including any fees or expenses that accrue after the commencement of an Insolvency Proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any such Insolvency Proceeding) of any UK Loan Party, guarantees of any UK Loan Party, and all covenants and duties of any other kind and description owing by any UK Loan Party arising out of, under, pursuant to, in connection with, or evidenced by the Credit Agreement or any of the other Loan Documents and irrespective of whether for the payment of money, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, and including all interest not paid when due and all other expenses or other amounts that any UK Loan Party is required to pay or reimburse by the Loan Documents or by law or otherwise in connection with the Loan Documents, and (b) all UK Bank Product Obligations. Without limiting the generality of the foregoing, the Secured Liabilities include the obligation to pay (i) the principal of the UK Revolving Loans, (ii) interest accrued on the UK Revolving Loans, (iii) the amount necessary to reimburse Issuing Bank for amounts paid or payable pursuant to Letters of Credit issued for the account of UK Borrowers, (iv) Letters of Credit commissions, fees (including fronting fees) and charges, (v) Lender Group Expenses of any UK Loan Party, (vi) fees payable by any UK Loan Party under the Credit Agreement or any of the other Loan Documents, (vii) indemnities and other amounts payable by any UK Loan Party under or in connection with any Loan Document, and (viii) any guarantees by any US Loan Party of all or any part of the Secured Liabilities. Any reference in the Credit Agreement or in the Loan Documents to the UK Obligations shall include all or any portion thereof and any extensions, modifications, renewals, or alterations thereof, both prior and subsequent to any Insolvency Proceeding.

Security Assets means all assets of each Chargor subject to any security created by this Deed.

Security Period means the period beginning on the date of this Deed and ending on the date on which the Secured Liabilities have been irrevocably and unconditionally satisfied in full and no Secured Party has any commitment or liability, whether present or future, actual or contingent, in relation to the facility provided under the Credit Agreement in relation to any Chargor. If any amount paid by any Chargor and/or in connection with the satisfaction of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of such Chargor or otherwise, then that amount shall not be considered to have been irrevocably paid for the purpose of this Deed.

Shares means all shares held by any Chargor in its Subsidiaries.

Specified Intellectual Property means the registered Intellectual Property Rights (if any) specified in Schedule 6 (*Specified Intellectual Property*) and/or in the Schedule to any Deed of Accession.

Subsidiary means:

(a) a subsidiary within the meaning of section 1159 of the Companies Act 2006; and

(b) any company which would be a subsidiary within the meaning of section 1159 of the Companies Act 2006 but for any Security Interest subsisting over the shares in that company from time to time,

but on the basis that a person shall be treated as a member of a company if any shares in that company are held by that person's nominee or any other person acting on that person's behalf.

Warning Notice means a "warning notice" as defined in paragraph 1(2) of Schedule 1B of the Companies Act 2006.

1.2 Construction

(a) Any reference in this Deed to:

(i) **assets** includes present and future properties, revenues and rights of every description;

(ii) an **authorisation** means an authorisation, consent, approval, licence, resolution, filing or registration;

(iii) any **Loan Document** or any other agreement or instrument is a reference to that Loan Document or other agreement or instrument as amended, amended and restated, varied, novated supplemented or replaced from time to time;

(iv) **indebtedness** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;

(v) a **person** includes one or more of that person's assigns, transferees or successors in title, delegates, sub-delegates and appointees (in the case of a Chargor only, in so far as such assigns, transferees or successors in title, delegates, sub-delegates and appointees are permitted in accordance with the Loan Documents) and any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality);

(vi) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

(vii) a **guarantee** includes any guarantee or indemnity, bond, letter of credit, documentary or other credit, or other assurance against financial loss;

(viii) a provision of law is a reference to that provision as amended or re-enacted;

(ix) words importing the singular shall include the plural and vice versa.

(b) Clause and Schedule headings are for ease of reference only.

(c) Capitalised terms defined in the Credit Agreement have the same meaning when used in this Deed unless the context requires otherwise.

(d) The terms of the other Loan Documents and of any side letters between any parties in relation to any Loan Document are incorporated in this Deed to the extent required to ensure that any purported disposition of an interest in Land contained in this Deed is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

(e) Each of the charges in Clause 3 (*Creation of Security*) over each category of the assets, each asset and each sub-category of each asset specified in such clause shall be read and construed separately, as though each such category, asset and sub-category were charged independently and separately of each other and shall apply to both present and future assets.

2 Covenant to pay

Each Chargor covenants with the UK Security Agent as trustee for the Secured Parties that it will on demand pay and discharge the Secured Liabilities when due.

3 Creation of Security

3.1 Land

Each Chargor charges:

(a) by way of legal mortgage its interest in the Land referred to in Schedule 2 (*Land charged by way of legal mortgage*); and

(b) by way of fixed charge any right, title or interest which it has now or may subsequently acquire to or in any other Land.

3.2 Shares

Each Chargor charges by way of mortgage or (if or to the extent that this Deed does not take effect as a mortgage) by way of fixed charge:

(a) all Shares; and

(b) all related Distribution Rights.

3.3 Investments

Each Chargor charges by way of mortgage or (if and to the extent that this Deed does not take effect as a mortgage) by way of fixed charge:

(a) all Investments; and

(b) all related Distribution Rights,

including those held for it by any nominee.

3.4 Equipment

Each Chargor charges by way of fixed charge all Equipment, so far as it is not charged by way of legal mortgage or fixed charge under Clause 3.1 (*Land*).

3.5 Book Debts

Each Chargor charges by way of fixed charge its Book Debts, both uncollected and collected, the proceeds of the same and all monies otherwise due and owing to such Chargor but excluding the Charged Accounts and any amounts standing to the credit of any Charged Account.

3.6 Blocked Accounts

Each Chargor charges by way of fixed charge all of its right, title and interest (if any) in and to the Blocked Accounts and all monies standing to the credit of any of the Blocked Accounts and the debts represented by them

3.7 Intellectual Property Rights

Each Chargor charges by way of fixed charge all Intellectual Property Rights.

3.8 Goodwill

Each Chargor charges by way of fixed charge its goodwill.

3.9 Uncalled capital

Each Chargor charges by way of fixed charge its uncalled capital.

3.10 Authorisations

Each Chargor charges by way of fixed charge the benefit of all authorisations held by it in relation to any Security Asset.

3.11 Insurance

Each Chargor charges by way of fixed charge all of its benefits, claims and returns of premiums in respect of the Insurance.

3.12 Other assets

(a) Each Chargor charges by way of floating charge all its present and future business, undertaking and assets which are not effectively mortgaged, charged by way of fixed charge or assigned under this Clause 3 (*Creation of Security*).

(b) Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to any floating charge created by this Deed.

3.13 Trust

(a) Subject to paragraph (b), if or to the extent that for any reason the assignment, mortgaging or charging of any Security Asset is prohibited, each Chargor holds it on trust for the UK Security Agent.

(b) If the reason referred to in paragraph (a) is that:

(i) a consent or waiver must be obtained; or

(ii) a condition must be satisfied,

then subject to paragraph (c), the relevant Chargor shall use all reasonable endeavours to:

(A) apply for the consent or waiver; and

(B) satisfy the condition,

as soon as reasonably practicable after the date of this Deed or, if the Security Asset is acquired after the date of this Deed, as soon as reasonably practicable after the date of acquisition.

(c) Where the consent or waiver is not to be unreasonably withheld, the relevant Chargor shall use all reasonable endeavours to obtain it as soon as reasonably practicable.

(d) On the waiver or consent being obtained, or the condition being satisfied, the Security Asset shall be mortgaged, charged or assigned (as appropriate) under this Clause 3 (*Creation of Security*) and the trust referred to in paragraph (a) shall terminate.

(e) In relation to paragraphs (b) and (c) above, the parties acknowledge that all reasonable endeavours will not require:

(i) any steps to be taken in relation to an asset having a value of less than US$ 150,000;

(ii) the relevant Chargor to place commercial relationships with any third party in jeopardy; or

(iii) the payment by the relevant Chargor of any monetary consideration to such third party, other than expenses and nominal amounts, to obtain any such consent or waiver.

4 Nature of Security Created

The Security Interests created under this Deed are created:

(a) as a continuing security and will extend for the ultimate balance of sums payable in connection with the Secured Liabilities regardless of any intermediate payment or discharge in whole or part;

(b) (except in the case of assets which are the subject of a legal mortgage under this Deed) over all present and future assets of the kind described which are owned by any Chargor and, to the extent that it does not own those assets, shall extend to any right or interest which it may have in them;

(c) in favour of the UK Security Agent as agent and trustee for the Secured Parties; and

(d) subject to Clause 3.13 (*Trust*) with full title guarantee.

5 Restrictions

No Chargor shall:

(a) create or permit to subsist any Security Interest of whatsoever nature on any Security Asset; or

(b) sell, transfer, grant, lease or otherwise dispose of any Security Asset,

in each case, except as permitted by the Loan Documents or with the consent of the UK Security Agent.

6 Conversion of Floating Charge

6.1 Conversion on notice

Subject to Clause 6.2 (*Limitation*), the UK Security Agent may by notice to a Chargor at any time during the Security Period convert the floating charge created by that Chargor under this Deed into a fixed charge in respect of any Security Asset specified in that notice if:

(a) an Event of Default has occurred and is continuing; or

(b) the UK Security Agent (acting reasonably) considers that Security Asset to be in danger of being seized, attached, charged, taken possession of or sold under any form of distress, sequestration, execution or other process or otherwise to be in jeopardy.

6.2 Limitation

Clause 6.1 (*Conversion on notice*) shall not apply by reason only of a moratorium being obtained, or anything being done with a view to a moratorium being obtained, under section 1A of the Insolvency Act 1986.

6.3 Automatic conversion

The floating charge created by a Chargor under this Deed will convert automatically into fixed charges:

(a) if the UK Security Agent receives notice of an intention to appoint an administrator of that Chargor;

(b) if any steps are taken, (including the presentation of a petition, the passing of a resolution or the making of an application) to appoint a liquidator, provisional liquidator, administrator or Receiver in respect of that Chargor over all or any part of its assets, or if such person is appointed;

(c) if that Chargor creates or attempts to create any Security Interest over all or any of the Security Assets (other than as permitted by the Loan Documents);

(d) on the crystallisation of any other floating charge over the Security Assets;

(e) if any person seizes, attaches, charges, takes possession of or sells any Security Asset under any form of distress, sequestration, execution or other process, or attempts to do so; and

(f) in any other circumstances prescribed by law.

7 Representations and Warranties

7.1 Making of representations

Each Chargor makes the representations and warranties set out in this Clause 7 to the UK Security Agent and the Secured Parties. The representations and warranties so set out are made on the date of this Deed and the representations set out in Clause 7.2 (*Title*) and paragraphs (b), (c) and (d) of Clause 7.4 (*Shares*) are deemed to be repeated by the Chargors throughout the Security Period on those dates on which the Repeating Representations are to be repeated in accordance with the terms of the Credit Agreement with reference to the facts and circumstances then existing.

7.2 Title

The Chargors are the sole legal and beneficial owners of the Security Assets free of any Security Interest or third party interest of any kind (other than pursuant to or as permitted by the Loan Documents or as contemplated by Clause 3.13 (*Trust*)).

7.3 Land

All Land (other than any leasehold property) beneficially owned by a Chargor as at the date of this Deed is described in Schedule 2 (*Land charged by way of legal mortgage*).

7.4 Shares

(a) All Shares beneficially owned by a Chargor as at the date of this Deed are described in Schedule 4 (*Shares*).

(b) All of the Shares are fully paid.

(c) No Warning Notice or Restrictions Notice has been issued to a Chargor in respect of all or any part of the Shares held by such Chargor and remains in effect.

(d) The PSC register of each Chargor (other than the Company) is up to date and no Warning Notices or Restrictions Notices have been issued by a Chargor (other than the Company) which have not been complied with or lifted.

7.5 Specified Intellectual Property

On the date of this Deed, the details of the Specified Intellectual Property appearing or referred to in Schedule 6 (*Specified Intellectual Property*):

(a) are true, accurate, and complete in all material respects; and

(b) no Chargor is the owner of any interest in any other material registered Intellectual Property Rights which are not identified in that Schedule.

8 Undertakings

8.1 Duration

The undertakings in this clause 8 shall remain in force throughout the Security Period and are given by each Chargor to the UK Security Agent and the Secured Parties.

8.2 Book debts and receipts

Each Borrower shall collect and realise its Book Debts and other monies and receipts as follows:

(a) it will collect and realise the proceeds and shall promptly pay all amounts so received into a Blocked Account (but pending such payment will not commingle such amounts with any other funds and shall hold such amounts on trust for the UK Security Agent);

(b) if any account debtor makes a payment into any account which is not a Blocked Account, it will promptly (i) transfer the relevant amounts to a Blocked Account and (ii) direct the relevant account debtor to make future payments to a Blocked Account; and

(c) to the extent that the UK Security Agent do not obtain an effective Security Interest in any Book Debt, it will hold such Book Debts on trust for the UK Security Agent and deal with it in accordance with the other provisions of this clause 8.2.

8.3 Blocked Account Arrangements

Each Borrower shall:

(a) in respect of each Blocked Account opened or designated on the date of this Deed:

(i) serve notice upon the account bank at which each Blocked Account is opened (in respect of the relevant Blocked Accounts) in substantially the form set out in Part I of Schedule 3 (*Forms of Notice to Banks and Acknowledgement*); and

(ii) procure the relevant bank returns the acknowledgement in substantially the form set out in Part II of Schedule 3 (*Forms of Notice to Banks and Acknowledgement*) or such other form acceptable to the UK Security Agent (acting reasonably); and

(b) in respect of each Blocked Account opened or designated after the date of this Deed, promptly following the opening or designation of such Blocked Account:

(i) serve notice upon the account bank at which each Blocked Account is opened (in respect of the relevant Blocked Accounts) in substantially the form set out in Part III of Schedule 3 (*Forms of Notice to Banks and Acknowledgement*); and

(ii) procure the relevant bank returns the acknowledgement in substantially the form set out in Part IV of Schedule 3 (*Forms of Notice to Banks and Acknowledgement*) or such other form acceptable to the UK Security Agent (acting reasonably).

8.4 Operation of Blocked Accounts

Until the security constituted by this Deed is discharged, no Borrower shall be entitled to withdraw the whole or any part of any amount standing to the credit of any Blocked Account and shall not take any action, claim or proceedings against the UK Security Agent or any other party for the return or payment to any person of the whole or any part of any amount standing to the credit of any Blocked Account.

8.5 Other Account Arrangements

Each Chargor shall promptly upon the execution of this Deed or, in respect of any Other Account opened after the date of this Deed, promptly following the opening of such Other Account:

(a) serve notice upon the account bank at which each Other Account is opened (in respect of the relevant Other Accounts) in substantially the form set out in Part V of Schedule 3 (*Forms of Notice to Banks and Acknowledgement*); and

(b) use reasonable endeavours to procure the relevant bank returns the acknowledgement in substantially the form set out in Part VI of Schedule 3 *(Forms of Notice to Banks and Acknowledgement*) or such other form acceptable to the UK Security Agent (acting reasonably), provided that, if the relevant Chargor has not been able to obtain such acknowledgement from the relevant bank within 20 Business Days of serving the notice referred to in paragraph (a) above, any obligation to comply with this paragraph (b) shall cease.

8.6 Operation of Other Accounts

Unless the Security Agent gives notice to the Chargor following an Event of Default which has occurred and is continuing, the Chargors shall be entitled to operate the Other Accounts PROVIDED THAT:

(a) the Other Accounts each retain a credit or zero balance at all times; and

(b) the Chargors shall not at any time transfer the whole or any part of the amounts standing to the credit of any Other Account to any other bank account other than to another Charged Account or in the ordinary course of business or to the extent permitted under the Loan Documents.

8.7 Shares and Investments

Each Chargor covenants that, at all times during the Security Period:

(a) if it forms or acquires any Subsidiary after the date of this Deed, it shall promptly notify the UK Security Agent;

(b) as soon as any Shares (other than the Immaterial Subsidiary Shares) or Investments are registered in, or transferred into the name of, a Chargor, it shall promptly (or such longer period as is reasonably required for HM Revenue and Customs to stamp any transfer form effecting such acquisition) deposit with the UK Security Agent, in respect of or in connection with those Shares (other than the Immaterial Subsidiary Shares) or Investments:

(i) all stock and share certificates and documents of or evidencing title; and

(ii) signed undated transfers, completed in blank,

all of which will be held by the UK Security Agent at the reasonable expense and risk of the Chargor;

(c) it shall:

(i) comply with any notice served on it in respect of all or any part of the Shares held by that Chargor pursuant to Part 21A of the Companies Act 2006 within the timeframe specified in that notice; and

(ii) will deliver to the UK Security Agent a copy of any Warning Notice or Restrictions Notice served on it in respect of all or any part of the Shares held by that Chargor promptly upon receipt; and

(d) other than the Company, it will send a copy of any Restrictions Notices or Warning Notices issued by it to the UK Security Agent promptly following issue.

8.8 Land

(a) Each Chargor shall promptly notify the UK Security Agent in writing if it acquires any estate or interest in Land.

(b) Each Chargor shall promptly give notice in writing to the UK Security Agent if:

(i) it receives any notice under section 146 of the Act; or

(ii) any proceedings are commenced against it for the forfeiture of any lease of any Land.

(c) If any Chargor acquires any freehold or leasehold property after the date of this Deed it shall:

(i) promptly on request by the UK Security Agent and at the cost of the Chargor, execute and deliver to the UK Security Agent a legal mortgage in favour of the UK Security Agent of that property in the same form as this Deed (*mutatis mutandis*);

(ii) if required by the UK Security Agent and if the title to that freehold or leasehold property is registered at the Land Registry or required to be so registered, give the Land Registry written notice of this Deed; and

(iii) if applicable, ensure that the provisions of Clause 14.1 (*Application to Land Registrar*) are complied with in relation to that legal mortgage.

(d) If the consent of the landlord in whom the reversion of a lease is vested is required for a Chargor to execute a legal mortgage over it, that Chargor shall:

(i) not be required to perform that obligation unless and until it has obtained the landlord's consent; and

(ii) use its reasonable endeavours to obtain the landlord's consent.

(e) Each Chargor shall:

(i) perform all its obligations under any law or regulation in any way related to or affecting its Land, except to the extent that non-performance of those obligations would not materially adversely affect the value or marketability of any of its Land; and

(ii) within 14 days after receipt by it of any material application, requirement, order or notice served or given by any public or local or any other authority with respect to its Land (or any part of it):

(A) deliver a copy to the UK Security Agent; and

(B) inform the UK Security Agent of the steps taken or proposed to be taken to comply with the relevant requirements.

9 Shares and Investments

9.1 Before an Event of Default

Until an Event of Default occurs and is continuing:

(a) each Chargor shall pay all monies arising from the Distribution Rights relating to the Shares and Investments into an Other Account; and

(b) no Chargor shall exercise any voting and other rights and powers attached to the Shares and Investments in a manner which prejudices the interests of the Secured Parties under the Loan Documents.

9.2 After an Event of Default

Following the occurrence of an Event of Default which is continuing, each Chargor shall promptly pay over to the UK Security Agent all monies arising from the Distribution Rights relating to the Shares and Investments which it may receive, and exercise all voting and other rights and powers attached to the Shares and Investments in any manner which the UK Security Agent may direct.

10 Enforcement

10.1 When Security becomes enforceable

The Security Interests created by a Chargor under this Deed shall be enforceable:

(a) after the occurrence of an Event of Default for so long as such Event of Default is continuing; or

(b) if a Chargor so requests.

10.2 Powers on enforcement

At any time after the Security Interests created by a Chargor under this Deed has become enforceable, the UK Security Agent may (without prejudice to any other of its rights and remedies and without notice to any Chargor) do all or any of the following:

(a) serve notice upon any account bank at which an Other Account is open, terminating the Chargor's right to operate such Other Account;

(b) exercise all the powers and rights conferred on mortgagees by the Act, as varied and extended by this Deed, without the restrictions contained in sections 103 or 109(1) of the Act;

(c) exercise the power of leasing, letting, entering into agreements for leases or lettings or accepting or agreeing to accept surrenders of leases in relation to any Security Asset, without the restrictions imposed by sections 99 and 100 of the Act;

(d) to the extent that any Security Asset constitutes Financial Collateral, as defined in the Regulations, appropriate it and transfer the title in and to it to the UK Security Agent insofar as not already transferred, subject to paragraphs (1) and (2) of Regulation 18;

(e) subject to Clause 11.1 (*Method of appointment and removal*), appoint one or more persons to be a Receiver or Receivers of all or any of the Security Assets; and

(f) appoint an administrator of any Chargor.

10.3 Disposal of the Security Assets

In exercising the powers referred to in Clause 10.2 (*Powers on enforcement*), the UK Security Agent or any Receiver may sell or dispose of all or any of the Security Assets at the times, in the manner and order, on the terms and conditions and for the consideration determined by it.

10.4 Application of moneys

(a) The UK Security Agent or any Receiver shall apply moneys received by them under this Deed after the Security Interests created under this Deed have become enforceable in the following order:

(i) first, in or towards the payment pro rata of, or the provision pro rata for, any unpaid costs and expenses of the UK Security Agent and any Receiver under this Deed or which are incidental to any Receiver's appointment, together with interest at the rate specified in Section 2.6(c) of the Credit Agreement (both before and after judgment) from the date those amounts became due until the date they are irrevocably paid in full;

(ii) secondly, in or towards the payment pro rata of, or the provision pro rata for, any unpaid fees, commission or remuneration of the UK Security Agent and any Receiver;

(iii) thirdly, in or towards the discharge of all liabilities having priority to the Secured Liabilities;

(iv) fourthly, in or towards the discharge of the Secured Liabilities in accordance with the Credit Agreement; and

(v) fifthly, in the payment of any surplus to the relevant Chargor or other person entitled to it,

and section 109(8) of the Act shall not apply.

(b) Clause 10.4(a) will override any appropriation made by a Chargor.

11 Appointment and powers of Receivers

11.1 Method of appointment and removal

(a) The UK Security Agent may not appoint a Receiver by reason only of a moratorium being obtained, or anything being done with a view to a moratorium being obtained, under section 1A of the Insolvency Act 1986.

(b) Every appointment or removal of a Receiver, of any delegate or of any other person by the UK Security Agent pursuant to this Deed may be made in writing under the hand of any officer or manager of the UK Security Agent (subject to any requirement for a court order in the removal of an administrative receiver).

11.2 Powers of Receiver

Every Receiver shall have all the powers:

(a) of the UK Security Agent under this Deed;

(b) conferred by the Act on mortgagees in possession and on receivers appointed under the Act; and

(c) in relation to, and to the extent applicable to, the Security Assets or any of them, the powers specified in Schedule 1 of the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver within the meaning of that Act).

11.3 Joint or several

If two or more persons are appointed as Receivers of the same assets, they may act jointly and/or severally so that (unless any instrument appointing them specifies to the contrary) each of them may exercise individually all the powers and discretions conferred on Receivers by this Deed.

11.4 Receiver as agent

Every Receiver shall be the agent of the relevant Chargor which shall be solely responsible for his acts and defaults and for the payment of his remuneration.

11.5 Receiver's remuneration

Every Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the UK Security Agent, and the maximum rate specified in section 109(6) of the Act shall not apply.

11.6 Delegation

(a) The UK Security Agent and any Receiver may, for the time being and from time to time, delegate by power of attorney or in any other manner (including, without limitation, under the hand of any manager of the UK Security Agent) to any person any right, power or discretion exercisable by the UK Security Agent or such Receiver (as the case may be) under this Deed.

(b) Any such delegation may be made upon the terms (including, without limitation, power to sub delegate) and subject to any regulations which the UK Security Agent or such Receiver (as the case may be) may think fit.

(c) Neither the UK Security Agent nor any Receiver will be in any way liable or responsible to any Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any such delegate or sub delegate who shall be entitled to all the indemnities to which his appointor is entitled under this Deed.

12 Protection of purchasers

No purchaser or other person dealing with the UK Security Agent or any Receiver shall be bound or concerned:

(a) to see or enquire whether the right of the UK Security Agent or any Receiver to exercise any of the powers conferred by this Deed has arisen or not;

(b) with the propriety of the exercise or purported exercise of those powers; or

(c) with the application of any moneys paid to the UK Security Agent, to any Receiver or to any other person.

13 Protection of the Secured Parties and Receivers

13.1 Exclusion of liability

None of the UK Security Agent, the other Secured Parties, any Receiver or any of their respective officers or employees shall have any responsibility or liability:

(a) for any action taken, or any failure to take any action, in relation to all or any of the Security Assets;

(b) to account as mortgagee in possession or for any loss upon realisation of any Security Asset;

(c) for any loss resulting from any fluctuation in exchange rates in connection with any purchase of currencies; or

(d) for the loss or destruction of, or damage to, any of the Security Assets, or to any documents of or evidencing title to them, which are in the possession or held to the order of any such person (and which will be held by such persons at the expense and risk of the Chargors); or

(e) for any other default or omission in relation to all or any of the Security Assets for which a mortgagee in possession might be liable,

except in the case of gross negligence, wilful misconduct or breach of any obligations under the Loan Documents on the part of that person.

14 Further Assurances

14.1 Application to Land Registrar

Each Chargor consents to the registration against the registered titles specified in Schedule 2 (*Land charged by way of legal mortgage*) of:

(a) a restriction in the following terms:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [●] in favour of Wells Fargo Capital Finance (UK) Limited referred to in the charges register"; and

(b) a notice that the Lenders are under an obligation to make further advances on the terms and subject to the conditions of the Loan Documents.

14.2 Further action

Each Chargor shall, at its own expense, promptly take any action and sign or execute any further documents which the UK Security Agent (acting reasonably) may require in order to:

(a) protect, preserve and perfect the Security Interests intended to be created by or pursuant to this Deed;

(b) protect and preserve the ranking of the Security Interests intended to be created by or pursuant to this Deed with any other Security Interest over any assets of any Chargor; or

(c) facilitate the realisation of all or any of the Security Assets or the exercise of any rights, powers and discretions conferred on the UK Security Agent, any Receiver or any administrator in connection with all or any of the Security Assets,

and any such document may (i) disapply section 93 of the Act and (ii) contain an assignment to the UK Security Agent of the Book Debts in any manner reasonably required by the UK Security Agent.

14.3 Deposit of documents

At any time after an Event of Default has occurred and is continuing, each Chargor shall on request by the UK Security Agent (acting reasonably), deposit with the UK Security Agent, in respect of or in connection with the Security Assets:

(a) all deeds, certificates and other documents of or evidencing title; and

(b) any other documents which the UK Security Agent may from time to time require for perfecting its title, or the title of any purchaser,

all of which will be held by the UK Security Agent at the reasonable expense and risk of the relevant Chargor.

14.4 Law of Property (Miscellaneous Provisions) Act 1994

The covenant set out in section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to the provisions set out in this Clause 14 (*Further Assurances*).

15 Power of Attorney

15.1 Appointment

Each Chargor irrevocably and by way of security appoints each of:

(a) the UK Security Agent;

(b) any delegate or sub-delegate of, or other person nominated in writing by, an officer of the UK Security Agent; and

(c) any Receiver,

jointly and severally as that Chargor's attorney, in that Chargor's name, on its behalf and in such manner as the attorney may in its or his absolute discretion think fit following the occurrence of an Event of Default which is continuing or following the failure by that Chargor to comply with a request from the UK Security Agent in accordance with the terms of this Deed, to take any action and sign or execute any further documents which that Chargor is required to take, sign or execute in accordance with this Deed.

15.2 Ratification

Each Chargor agrees, promptly on the request of the UK Security Agent or any Receiver, to ratify and confirm all actions taken and documents signed or executed in each case pursuant to the appointment in Clause 15.1 save in the case of gross negligence, wilful misconduct or breach of any obligations under the Loan Documents on the part of that person.

16 Preservation of Security

16.1 Reinstatement

If any payment by a Chargor or any discharge given by the UK Security Agent (whether in respect of the obligations of any Chargor or any security for those obligations or otherwise) is avoided or reduced as a result of insolvency or any similar event:

(a) the liability of each Chargor shall continue as if the payment, discharge, avoidance or reduction had not occurred; and

(b) the UK Security Agent shall be entitled to recover the value or amount of that security or payment from each Chargor, as if the payment, discharge, avoidance or reduction had not occurred.

16.2 Waiver of defences

The obligations of each Chargor under this Deed will not be affected by an act, omission, matter or thing which, but for this Clause 16.2 (*Waiver of defences*), would reduce, release or prejudice any of its obligations under this Deed (without limitation and whether or not known to it or the UK Security Agent or any other Secured Party) including:

(a) any time, waiver or consent granted to, or composition with, any Chargor or other person;

(b) the release of any other Chargor or any other person under the terms of any composition or arrangement with any creditor of any Chargor or any other person;

(c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Chargor or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

(d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Chargor or any other person;

(e) any amendment (however fundamental) or replacement of a Loan Document or any other document or security;

(f) any unenforceability, illegality or invalidity of any obligation of any person under any Loan Document or any other document or security; or

(g) any insolvency or similar proceedings.

16.3 Chargor intent

Without prejudice to the generality of Clause 16.2 (*Waiver of defences*), each Chargor expressly confirms that it intends that the security created by this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Loan Documents and/or any facility or amount made available under any of the Loan Documents for the purposes of or in connection with any of the following:

(a) business acquisitions of any nature;

(b) increasing working capital;

(c) enabling investor distributions to be made;

(d) carrying out restructurings;

(e) refinancing existing facilities;

(f) refinancing any other indebtedness;

(g) making facilities available to new borrowers;

(h) any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and

(i) any fees, costs and/or expenses associated with any of the foregoing.

16.4 Immediate recourse

Each Chargor waives any right it may have of first requiring the UK Security Agent to proceed against or enforce any other rights or security or claim payment from any person before enforcing the security constituted by this Deed. This waiver applies irrespective of any law or any provision of a Loan Document to the contrary.

16.5 Appropriations

Until the expiry of the Security Period or if the monies referred to in (a) or (b) below are insufficient to procure the expiry of the Security Period, the UK Security Agent may:

(a) refrain from applying or enforcing any other monies, security or rights held or received by the UK Security Agent in respect of the Secured Liabilities, or apply and enforce the same in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and no Chargor shall be entitled to the benefit of the same; and

(b) hold in an interest-bearing suspense account any monies received from any Chargor or on account of any Chargor's liability in respect of the Secured Liabilities.

16.6 Deferral of Chargors' rights

Until the expiry of the Security Period, and unless the UK Security Agent otherwise directs, no Chargor will exercise any rights which it may have by reason of performance by it of its obligations under the Loan Documents:

(a) to be indemnified by any other Chargor;

(b) to claim any contribution from any other guarantor of any Chargor’s obligations under the Loan Documents; and/or

(c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any of the UK Security Agent’s rights under the Loan Documents or of any other guarantee or security taken pursuant to, or in connection with, the Loan Documents by the UK Security Agent.

16.7 Additional Security

This Deed is in addition to, is not in any way prejudiced by and shall not merge with any contractual right or remedy or other Security Interest now or in the future held by or available to any Secured Party.

16.8 New Accounts

If a Secured Party receives notice (actual or otherwise) of any subsequent Security Interest over or affecting all or any of the Security Assets it may open a new account or accounts with any Chargor and, if it does not do so, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice of that subsequent Security Interest, and as from that time all payments made by the relevant Chargor to that Secured Party:

(a) shall be credited or be treated as having been credited to the new account of that Chargor; and

(b) shall not operate to reduce the Secured Liabilities at the time when the that Secured Party received or was deemed to have received such notice.

17 Guarantee and Indemnity

17.1 Guarantee and indemnity

Each Guarantor irrevocably and unconditionally jointly and severally:

(a) guarantees to each Secured Party punctual performance by each other UK Loan Party of all the UK Loan Party's obligations under the Loan Documents;

(b) undertakes with each Secured Party that whenever a UK Loan Party does not pay any amount when due under or in connection with any Loan Document, that Guarantor shall immediately on demand pay that amount as if it was the principal obligor; and

agrees with each Secured Party that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that relevant Secured Party immediately on demand against any cost, loss or liability it incurs as a result of a UK Loan Party not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Loan Document on the date when it would have been due. The amount payable by a Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 17 (*Guarantee and Indemnity*) if the amount claimed had been recoverable on the basis of a guarantee.

17.2 Continuing Guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any UK Loan Party under the Loan Documents, regardless of any intermediate payment or discharge in whole or in part.

17.3 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of any UK Loan Party or any security for those obligations or otherwise) is made by a Secured Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Guarantor under this Clause 17 (*Guarantee and Indemnity*) will continue or be reinstated as if the discharge, release or arrangement had not occurred.

17.4 Waiver of defences

The obligations of each Guarantor under this Clause 17 (*Guarantee and Indemnity*) will not be affected by any act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Clause 17 (*Guarantee and Indemnity*) (without limitation and whether or not known to it or any Secured Party) including:

(a) any time, waiver or consent granted to, or composition with, any UK Loan Party or other person;

(b) the release of any other UK Loan Party or any other person under the terms of any composition or arrangement with any creditor of any UK Loan Party;

(c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any UK Loan Party or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

(d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of a UK Loan Party or any other person;

(e) any amendment, novation, supplement, extension restatement (however fundamental and whether or not more onerous) or replacement of a Loan Document or any other document or security including any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Loan Document or other document or security;

(f) any unenforceability, illegality or invalidity of any obligation of any person under any Loan Document or any other document or security;

(g) any insolvency or similar proceedings; or

(h) the exercise of, or refraining from the exercise of, any rights against any UK Loan Party or any Charged Property.

17.5 Guarantor intent

Without prejudice to the generality of Clause 17.4 (*Waiver of defences*), each Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Loan Documents and/or any facility or amount made available under any of the Loan Documents for the purposes of or in connection with any of the following:

(a) business acquisitions of any nature;

(b) increasing working capital;

(c) enabling investor distributions to be made;

(d) carrying out restructurings;

(e) refinancing existing facilities;

(f) refinancing any other indebtedness;

(g) making facilities available to new borrowers;

(h) any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and

(i) any fees, costs and/or expenses associated with any of the foregoing.

17.6 Immediate recourse

Each Guarantor waives any right it may have of first requiring any Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Guarantor under this Clause 17 (*Guarantee and Indemnity*). This waiver applies irrespective of any law or any provision of a Loan Document to the contrary.

17.7 Appropriations

Until all amounts which may be or become payable by the UK Loan Party under or in connection with the Loan Documents have been irrevocably paid in full or if the monies referred to in (a) or (b) below are insufficient to procure the expiry of the Security Period, each Secured Party (or any trustee or agent on its behalf) may:

(a) refrain from applying or enforcing any other moneys, security or rights held or received by that Secured Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and

(b) hold in an interest-bearing suspense account any moneys received from any Guarantor or on account of any Guarantor's liability under this Clause 17 (*Guarantee and Indemnity*).

17.8 Deferral of Guarantor's rights

Until all amounts which may be or become payable by each UK Loan Party under or in connection with the Loan Documents have been irrevocably paid in full and unless the UK Collateral Agent otherwise directs, no Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Loan Documents or by reason of any amount being payable, or liability arising, under this Clause 17 (*Guarantee and Indemnity*):

(a) to receive or claim payment from or be indemnified by a UK Loan Party;

(b) to claim any contribution from any other guarantor of, or provider of any Security Interest in respect of, any UK Loan Party's obligations under the Loan Documents;

(c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Loan Documents or of any other guarantee or security taken pursuant to, or in connection with, the Loan Documents by the Secured Parties;

(d) to bring legal or other proceedings for an order requiring any UK Loan Party to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under Clause 17 (*Guarantee and Indemnity*) of this Deed;

(e) to exercise any right of set-off against any UK Loan Party; and/or

(f) to claim or prove as a creditor of any UK Loan Party in competition with the Secured Parties (or any of them).

17.9 Additional Security

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Secured Party.

17.10 Guarantee in favour of the Bank Product Providers

For the purposes of this Clause 17 (*Guarantee and Indemnity*), the definition of Loan Documents shall be deemed to include any UK Bank Product Agreement.

18 Notices

18.1 Delivery and Receipt

(a) Any communications to be made under or in connection with this Deed shall be made in writing, may be made by letter or facsimile and shall be deemed to be given as follows:

(i) if by way of letter, when it has been left at the relevant address or two Business Days after being deposited in the post with postage prepaid in an envelope addressed to it at that address; and

(ii) if by facsimile, when received in legible form,

save that any notice delivered or received on a non-Business Day or after business hours shall be deemed to be given on the next Business Day at the place of delivery or receipt.

(b) Any communication or document made or delivered to the Company in accordance with this Clause 18.1 (*Delivery and Receipt*) will be deemed to have been made or delivered to each of the Chargors.

18.2 Company's Address

The Company's and each other Chargor's address for notices are:

Camfaud Group Limited
High Road Thornwood Common,
Epping,
Essex, CM16 6LU

Attention: Bruce Young/David Faud

With a copy to each of:

Brundage Bone Concrete Pumping Holdings Inc.
6461 Downing Street
Denver, CO 80029
Attn: Iain Humphries
Tel. No.: (303) 289-7497
Email: iainhumphries@brundagebone.com

Argand Partners LP LLC
Club Row Building
28 West 44th Street, Suite 501
New York, NY 10036
Attn: Tariq Osman
Tel. No.: (212) 588-6470
Email: tosman@argandequity.com

Winston & Strawn LLP
200 Park Avenue
New York, NY 10166-4193
Attn: Peter Alfano
Tel. No.: (212) 294-6765
Email: palfano@winston.com

or such as the Company may notify to the UK Security Agent by not less than 10 days' notice.

18.3 UK Security Agent's Address

The UK Security Agent's address and facsimile number for notices are:

Wells Fargo Capital Finance (UK) Limited
4th Floor
90 Long Acre
London WC2E 9RA

Fax No: +44 845 641 8889
Attention: Portfolio Manager – Camfaud

or such as the UK Security Agent may notify to the Company by not less than 10 days' notice.

19 Miscellaneous Provisions

19.1 Tacking

For the purposes of section 94(1) of the Act and section 49(3) of the Land Registration Act 2002 the UK Security Agent confirms on behalf of the Lenders that the Lenders shall make further advances to the Borrowers on the terms and subject to the conditions of the Loan Documents.

19.2 Separate Charges

This Deed shall, in relation to each Chargor, be read and construed as if it were a separate Deed relating to such Chargor to the intent that if any Security Interest created by any other Chargor in this Deed shall be invalid or liable to be set aside for any reason, this shall not affect any Security Interest created under this Deed by such first Chargor.

19.3 Invalidity

If, at any time, any provision of this Deed is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired.

19.4 Rights and Remedies

The rights of the Secured Parties under this Deed are cumulative, may be exercised as often as considered appropriate and are in addition to the general law. Such rights (whether arising hereunder or under the general law) shall not be capable of being waived or varied otherwise than by an express waiver or variation in writing and, in particular, any failure to exercise or delay in exercising any of such rights shall not operate as a waiver or variation of that or any other such right, any defective or partial exercise of any such rights shall not preclude any other or further exercise of that or any other such right, and no act or course of conduct or negotiation by any Secured Party or on its behalf shall in any way preclude it from exercising any such right or constitute a suspension or any variation of any such right.

19.5 Accession of Affiliates

(a) To the extent that any Affiliate of the Company is required by the terms of the Loan Documents to provide Security Interests over its assets under English law, it may do so by executing a Deed of Accession and such Affiliate shall on the date which such Deed of Accession is executed by it become a party to this Deed in the capacity of a Chargor and this Deed shall be read and construed for all purposes as if such company had been an original party to this Deed as a Chargor (but for the avoidance of doubt the security created by such company shall be created on the date of the Deed of Accession).

(b) Each Chargor (other than the Company) by its execution of this Deed or any Deed of Accession, irrevocably appoints the Company to execute on its behalf any Deed of Accession without further reference to or the consent of such Chargor and such Chargor shall be bound by any such Deed of Accession as if it had itself executed such Deed of Accession.

20 Release

20.1 Expiry of Security Period

(a) Upon the expiry of the Security Period or as otherwise permitted under the Loan Documents, the UK Security Agent shall, at the request and cost of the Chargors, take whatever action is necessary to release the Security Assets from the security constituted by this Deed and/or reassign the benefit of the Security Assets to the Chargors.

(b) Section 93 of the Act shall not apply to this Deed.

20.2 Other Accounts

At any time before the Security Interests created by this Deed shall have become enforceable, in the absence of any directions from the UK Security Agent to the contrary, any amounts permitted by the terms of the Loan Documents to be paid into an Other Account shall upon payment into such account stand released from any fixed charge in respect of such amount created pursuant to Clause 3 (*Creation of Security*) and shall stand subject to the floating charge created by Clause 3.12(a) (*Other Assets*), provided that such release shall in no respect prejudice the continuance of any fixed charge created pursuant to Clause 3 (*Creation of Security*) in respect of any other amount.

21 Governing Law and Jurisdiction

21.1 Governing Law

English law governs this Deed, its interpretation and any non-contractual obligations arising from or connected with it.

21.2 Jurisdiction

(a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed) (a Dispute).

(b) The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.

(c) This Clause 21.2 (*Jurisdiction*) is for the benefit of the Secured Parties only. As a result, no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, a Secured Party may take concurrent proceedings in any number of jurisdictions.

This Deed has been entered into as a deed on the date stated at the beginning of this Deed.

Schedule 1
Part 1 - The Chargors

Name of Chargor	Jurisdiction of incorporation	Registration number
Camfaud Group Limited	England and Wales	10473517
Camfaud Concrete Pumps Limited	England and Wales	02635232
Premier Concrete Pumping Limited	England and Wales	01714938

Part 2 – The Guarantors

Name of Guarantor	Jurisdiction of incorporation	Registration number
Camfaud Group Limited	England and Wales	10473517
Camfaud Concrete Pumps Limited	England and Wales	02635232
Premier Concrete Pumping Limited	England and Wales	01714938

Schedule 2
Land charged by way of legal mortgage

None.

Schedule 3
Forms of Notice to Banks and Acknowledgement

Part I – Blocked Account Notice

[On Headed Notepaper of relevant Chargor]

[Date]

National Westminster Bank Plc
102 High Rd
Loughton
Essex IG10 4AS

Dear Sirs,

1 We refer to the notice and acknowledgement dated [ ], copies of which are appended to this notice (the **Existing Blocked Account Acknowledgement**), whereby we notified you that we had charged by way of first fixed charge in favour of Wells Fargo Capital Finance (UK) Limited (**WFCF**) all our rights, title, interest and benefit in and to the following account(s) held with yourselves and all amounts standing to the credit of such account from time to time:

Account No. [●], sort code [●]

Account No. [●], sort code [●]

[Repeat as necessary]

(the **Blocked Account(s)** and the **Existing Fixed Charge**).

2 The Existing Fixed Charge was granted to secure our obligations under a facility agreement between, among others, us and WFCF and certain other finance documents (the **Existing Obligations**).

3 On or around the date of this notice we have refinanced the Existing Obligations and entered into a new credit agreement between, among others, us and WFCF (the **New Credit Agreement**). In connection with the New Credit Agreement we hereby give you notice that by a debenture dated [●], we have charged to WFCF as the UK Security Agent (the **UK Security Agent**) by way of first fixed charge all our rights, title, interest and benefit in and to the Blocked Accounts and all amounts standing to the credit of such account from time to time (the **New Fixed Charge**).

4 We request that the provisions of the Existing Blocked Account Acknowledgement continue to apply to the Blocked Accounts charged in favour of the UK Security Agent pursuant to the New Fixed Charge. Please acknowledge receipt of this letter by returning a copy of the attached letter on your own headed notepaper with a receipted copy of this notice forthwith, to the Security Trustee at Wells Fargo Capital Finance (UK) Limited, 4th Floor, 90 Long Acre, London WC2E 9RA, Attention: Portfolio Manager – Camfaud.

Yours faithfully

for and on behalf of
[the relevant Chargor]

Part II – Blocked Account Acknowledgement

[On the Headed Notepaper of Bank]

[Date]

Wells Fargo Capital Finance (UK) Limited (the **UK Security Agent**)
4th Floor
90 Long Acre
London WC2E 9RA

Attention: Portfolio Manager – Camfaud

Dear Sirs,

[Name of Chargor] (Company)

1 We refer to the notice, received today from the Company with respect to the fixed charge which it has granted to the UK Security Agent over the Blocked Account(s) (the **Notice**).

2 Terms not defined in this letter shall have the meanings given to them in the Notice.

3 We hereby agree acknowledge that the Company has charged to the UK Security Agent by way of a first fixed charge all of its rights, title, interest and benefit in and to the Blocked Account(s).

4 We hereby irrevocably undertake to you that until receipt by us of notice from you confirming that you no longer have any interest in the Blocked Account the provisions of the Existing Blocked Account Acknowledgement shall continue to apply to the Blocked Accounts and that:

(a) any reference in the Existing Blocked Account Acknowledgement to the Existing Fixed Charge shall be deemed to be a reference to the New Fixed Charge; and

(b) any reference in the Existing Blocked Account Acknowledgement to Security Trustee shall be deemed to be a reference to the UK Security Agent.

This letter is governed by and shall be construed in accordance with English law.

Yours faithfully

for and on behalf of
National Westminster Bank Plc

We hereby acknowledge and accept the terms of this letter

for and on behalf of
Wells Fargo Capital Finance (UK) Limited

Part III Blocked Account Notice

[On Headed Notepaper of relevant Chargor]

[Date]

[Bank]
[Branch]

Attention: [•]

Dear Sirs,

1 We hereby give you notice that by debenture dated [●], we have charged to Wells Fargo Capital Finance (UK) Limited (the **UK Security Agent**) by way of first fixed charge all our rights, title, interest and benefit in and to the following account(s) held with yourselves and all amounts standing to the credit of such account from time to time:

Account No. [●], sort code [●]

Account No. [●], sort code [●]

[Repeat as necessary]

(the **Blocked Account(s)**).

2 Please acknowledge receipt of this letter by returning a copy of the attached letter on your own headed notepaper with a receipted copy of this notice forthwith, to the UK Security Agent at Wells Fargo Capital Finance (UK) Limited, 4th Floor, 90 Long Acre, London WC2E 9RA, Attention: Portfolio Manager – Camfaud.

Yours faithfully

for and on behalf of
[the relevant Chargor]

Part IV - Blocked Account Acknowledgement

[On the Headed Notepaper of Bank]

[Date]

Wells Fargo Capital Finance (UK) Limited (the **UK Security Agent**)
4th Floor
90 Long Acre
London WC2E 9RA

Attention: Portfolio Manager – Camfaud

Dear Sirs,

[Name of Chargor] (Company)

1 We refer to the notice, received today from the Company with respect to the fixed charge which it has granted to the Security Agent over the Blocked Account(s) (the **Notice**).

2 Terms not defined in this letter shall have the meanings given to them in the Notice.

3 We hereby acknowledge that the Company has charged to the UK Security Agent by way of a first fixed charge all of its rights, title, interest and benefit in and to the Blocked Account.

4 We hereby irrevocably undertake to you that until receipt by us of notice from you confirming that you no longer have any interest in the Blocked Account we shall:

(a) not exercise any right of combination, consolidation, merger or set-off which we may have in respect of, or otherwise exercise any other right which we may have to apply any monies from time to time standing or accruing to the credit of the Blocked Account save for fees and charges payable to us for the operation of the Blocked Account;

(b) promptly notify you of any renewal, renumbering or redesignation of any and all of the Blocked Account;

(c) promptly send to you copies with respect to all the Blocked Account of all statements and, if requested by you, copies of all credits, debits and notices given or made by us in connection with such account;

(d) not permit or effect any withdrawal or transfer from the Blocked Account by or on behalf of the Company save for withdrawals and transfers requested by you in writing to us pursuant to the terms of this letter;

(e) comply with all instructions received by us from you from time to time with respect to the conduct of the Blocked Account provided that such instructions are given in accordance with the terms of this letter;

(f) comply with all instructions received by us from you from time to time with respect to the movement of funds from the Blocked Account provided that:

(i) all instructions are received in writing, by facsimile, to us at facsimile number [●], attention: [●]; and

(ii) all instructions must be received by 2pm if they are to be complied with on the same Business Day. Instructions received outside such hours will be complied with on the next Business Day following such receipt. Facsimile instructions will be deemed received at the time of transmission;

(iii) all instructions are given in compliance with the mandate entered into by you stipulating who may give instructions to us; and

(g) to the extent that an instruction is given which would in our opinion cause the Blocked Account to become overdrawn, transfer the outstanding balance in the account;

(h) [(subject to paragraph 4(h) below) effect the following transaction on a daily basis unless we receive written notice to the contrary in accordance with paragraph 4(f) above: the cleared balance of the Blocked Account will be transferred into the account at [Bank] account number [●], being an account in your name designated the [the relevant Borrower] Loan Account attn. [●]];]

(i) not be obliged to comply with any instructions received from you or undertake the transactions set out in paragraph 4(g)) where:

(i) due to circumstances not within our direct control we are unable to comply with such instructions; and

(ii) that to comply with such instructions will breach a Court Order or be contrary to applicable law,

and in each case we shall give notice thereof to the Company and the Security Agent as well as reasons why we cannot comply with such instructions; and

(j) not be responsible for any loss caused to you or to the Company in the event that we are unable to comply with any instructions due to circumstances set out in paragraph 4(h), and in any event, we shall not be liable for any consequential, special, secondary or indirect loss of or damage to goodwill, profits or anticipated savings (however caused).

5 You acknowledge that we are obliged to comply with the terms of this letter and that we have no notice of the particulars of the charge granted to you by the Company other than as set out in the Notice and this letter. You further acknowledge that subject to the terms of this letter we shall not be liable to you in any respect if the Company operates the Blocked Account in breach of any agreement entered into by the Company with you.

6 We note that, for the purposes of this letter, all notices, copy notices, advices and correspondence to be delivered to you shall be effectively delivered if sent by facsimile to you at number [●] or by post at the address at the top of this letter, in both cases marked for the attention of the [●].

This letter is governed by and shall be construed in accordance with English law.

Yours faithfully

for and on behalf of
[Bank]

We hereby acknowledge and accept the terms of this letter

for and on behalf of
Wells Fargo Capital Finance (UK) Limited

Part V - Other Accounts Notice

[On Headed Notepaper of relevant Chargor]

[Date]

[Bank]

[Branch]

Attention: [•]

Dear Sirs,

1 We hereby give you notice that by a debenture dated [●], we have charged to Wells Fargo Capital Finance (UK) Limited (the **UK Security Agent**) all our rights, title, interest and benefit in and to the following account(s) held with yourselves and all amounts standing to the credit of such account from time to time:

Account No. [●], sort code [●]

Account No. [●], sort code [●]

[Repeat as necessary]

(the **Charged Account(s)**).

2 We hereby agree to indemnify you on demand against any and all costs, losses and expenses suffered or incurred by you as a result of complying with the undertakings contained in this noticed and in the enclosed acknowledgement, with which you are hereby instructed to comply, together with all other instructions which you may receive from the Security Trustee from time to time in relation to such undertakings.

3 Please acknowledge receipt of this letter by returning a copy of the attached letter on your own headed notepaper with a receipted copy of this notice forthwith, to the UK Security Agent at Wells Fargo Capital Finance (UK) Limited, 4th Floor, 90 Long Acre, London WC2E 9RA, Attention: Portfolio Manager – Camfaud.

Yours faithfully

for and on behalf of
[the relevant Chargor]

Part VI - Other Accounts Acknowledgement

[On the Headed Notepaper of Bank]

[Date]

Wells Fargo Capital Finance (UK) Limited (the **UK Security Agent**)
4th Floor
90 Long Acre
London WC2E 9RA

Attention: Portfolio Manager – Camfaud

Dear Sirs,

[Name of Chargor] (Company)

1 We refer to the notice, received today from the Company with respect to the charge which it has granted to you over the Charged Accounts (the **Notice**).

2 Terms not defined in this letter shall have the meanings given to them in the Notice.

3 We hereby acknowledge that the Company has charged to you all of its rights, title, interest and benefit in and to the Charged Accounts.

4 We hereby irrevocably undertake to you that until receipt by us of notice from you confirming that you no longer have any interest in the Charged Accounts we shall:

(a) not exercise any right of combination, consolidation, merger or set-off which we may have in respect of, or otherwise exercise any other right which we may have to apply any monies from time to time standing or accruing to the credit of the Charged Accounts save for fees and charges payable to us for the operation of the Charged Accounts;

(b) promptly notify you of any renewal, renumbering or redesignation of any and all of the Charged Accounts;

(c) upon request from you send to you copies with respect to all the Charged Accounts of all statements together with copies of all credits, debits and notices given or made by us in connection with such account;

(d) permit or effect any withdrawal or transfer from the Charged Accounts in accordance with the Chargor's mandate with us until we receive notice from you terminating the Chargor's right to operate the Charged Accounts;

(e) comply with all instructions received by us from you from time to time with respect to the conduct of the Charged Accounts provided that such instructions are given in accordance with the terms of this letter;

(f) comply with all instructions received by us from you from time to time with respect to the movement of funds from the Charged Accounts provided that:

(i) all instructions are received in writing, by facsimile, to us at facsimile number [●], attention: [●]; and

(ii) all instructions must be received by 2pm if they are to be complied with on the same Business Day. Instructions received outside such hours will be complied with on the next Business Day following such receipt. Facsimile instructions will be deemed received at the time of transmission; and

(iii) to the extent that an instruction is given which would in our opinion cause any Charged Account to become overdrawn we will transfer the cleared balance in the account.

(g) not be obliged to comply with any instructions received from you where:

(i) due to circumstances not within our direct control we are unable to comply with such instructions; and

(ii) that to comply with such instructions will breach a Court Order or be contrary to applicable law;

and in each case we shall give notice thereof to you and the Company as well as reasons why we cannot comply with such instructions;

(h) in the event that we are unable to comply with any instructions due to circumstances set out in paragraph (g) not be responsible for any loss caused to you or to the Company and in any event we shall not be liable for any consequential, special, secondary or indirect loss of or damage to goodwill, profits or anticipated savings (however caused); and

5 You acknowledge that we are obliged to comply with the terms of this letter and that we have no notice of the particulars of the charge granted to you by the Company other than as set out in the Notice and this letter. You further acknowledge that subject to the terms of this letter we shall not be liable to you in any respect if the Company operates the Charged Accounts in breach of any agreement entered into by the Chargor with you.

6 We are irrevocably authorised by you to follow any instructions received from you in relation to the Charged Accounts from any person that we reasonably believe is an authorised officer of the UK Security Agent, without further inquiry as to the UK Security Agent's right or authority to give such instructions and we shall be fully protected in acting in accordance with such instructions.

This letter is governed by and shall be construed in accordance with English law.

Yours faithfully

for and on behalf of
[Bank]

We hereby acknowledge and accept the terms of this letter

for and on behalf of
Wells Fargo Capital Finance (UK) Limited

Schedule 4
Shares

Chargor	Company Name	Type of Share	Number of Shares
Camfaud Group Limited	Camfaud Concrete Pumps Limited	Ordinary shares of £1 each	10,000
Camfaud Group Limited	Premier Concrete Pumping Limited	Ordinary shares of £1 each	50,000
Camfaud Group Limited	Eco-Pan Limited	Ordinary share of £1	1
Camfaud Group Limited	South Coast Concrete Pumping Limited	Ordinary shares of £1 each	1,000
Camfaud Group Limited	Reilly Concrete Pumping Limited	Ordinary shares of £1 each	10,000

Schedule 5
Charged Accounts

Part I – Blocked Accounts

Schedule 6
Specified Intellectual Property

Trade Marks

Schedule 7
Deed of Accession

THIS DEED OF ACCESSION is dated [•] and made

BETWEEN

(1) [•] Limited [registered in England with number [•] whose registered office is at [•]][a corporation organised and existing under the laws of [•] whose principal place of business is at [•]][of [•]] (the **New Chargor**);

(2) **CAMFAUD GROUP LIMITED** registered in England with number 10473517 for itself and as agent for and on behalf of each of the other Chargors presently party to the Debenture (as defined below) (**Company**); and

(3) **WELLS FARGO CAPITAL FINANCE (UK) LIMITED** , registered in England with number 2656007, as agent and trustee for the Secured Parties (the **UK Security Agent**).

RECITALS

(A) The Company and others as Chargors entered into a debenture dated [•] (as supplemented and amended from time to time, the Debenture) in favour of the UK Security Agent.

(B) The New Chargor has at the request of the Company and in consideration of the Secured Parties continuing to make facilities and/or Bank Products available to the Borrowers and after giving due consideration to the terms and conditions of the Loan Documents and the Debenture and satisfying itself that there are reasonable grounds for believing that the entry into this Deed by it will be of benefit to it, decided in good faith and for the purpose of carrying on its business to enter into this Deed and thereby become a Chargor under the Debenture.

(C) The Chargors and the UK Security Agent intend that this document take effect as a deed notwithstanding that it may be executed under hand.

IT IS AGREED:

1 Terms defined in the Debenture have the same meaning when used in this Deed.

2 The New Chargor agrees to become a party to and bound by the terms of the Debenture as a Chargor with immediate effect and so that the Debenture shall be read and construed for all purposes as if the New Chargor had been an original party to the Debenture in the capacity of Chargor (but so that the security created consequent on such accession shall be created on the date of this Deed).

3 The New Chargor undertakes to be bound by all of the covenants and agreements in the Debenture which are expressed to be binding on a Chargor.

4 The New Chargor grants to the UK Security Agent the assignments, charges, mortgages and other Security Interests described in the Debenture as being granted, created or made by Chargors under the Debenture to the intent that its assignments, charges, mortgages and other Security Interests shall be effective and binding upon it and its property and assets and shall not in any way be avoided, discharged or released or otherwise adversely affected by any ineffectiveness or invalidity of the Debenture or of any other party's execution of the Debenture or any other Deed of Accession, or by any avoidance, invalidity, discharge or release of any guarantee, assignment or charge contained in the Debenture or in any other Deed of Accession.

5 The Debenture and this Deed shall be read and construed as one to the extent and so that references in the Debenture to:

(a) this Deed and similar phrases shall be deemed to include this Deed;

(b) Schedule 2 (*Land charged by way of legal mortgage*) shall be deemed to include a reference to Part I of the Schedule to this Deed;

(c) Schedule 4 (*Shares*) shall be deemed to include a reference to Part II of the Schedule to this Deed;

(d) Schedule 5 (*Charged Accounts*) shall be deemed to include a reference to Part III of the Schedule to this Deed; and

(e) Schedule 6 (*Specified Intellectual Property*) shall be deemed to include a reference to Part IV of the Schedule to this Deed.

6 The parties agree that the bank accounts of the New Chargor specified in Part III of the Schedule to this Deed:

(a) as Other Accounts shall be designated as Other Accounts; and

(b) as Blocked Accounts shall be designated as Blocked Accounts,

for the purposes of the Debenture.

7 The Company, for itself and as agent for and on behalf of the other Chargors under the Debenture, agrees and consents to all of the matters provided for in this Deed.

8 Without limiting the generality of the other provisions of this Deed and the Debenture, pursuant to the terms of this Deed and the Debenture, the New Chargor as security for the payment and performance of the Secured Liabilities, and in the manner specified in Clause 4 (*Nature of Security Created*) of the Debenture:

(a) charges to the UK Security Agent by way of legal mortgage all of the property (if any) now belonging to it brief descriptions of which are specified in Schedule 2 (*Land charged by way of legal mortgage*) to the Debenture and/or Part I of the Schedule to this Deed;

(b) charges by way of mortgage or (if to the extent that this Deed does not take effect as a mortgage) by way of fixed charge to the UK Security Agent all of the Shares (if any) brief descriptions of which are specified in Part II of the Schedule to this Deed (which shall from today's date form part of the Shares for the purposes of the Debenture) and all related Distribution Rights;

(c) charges to the UK Security Agent by way of a fixed charge all of its right, title and interest in and to:

(i) the Blocked Account(s) specified in Part III of the Schedule to this Deed; and

(ii) all monies standing to the credit of such Blocked Account(s) and the debts represented by them;

(d) charges to the UK Security Agent by way of fixed charge its Intellectual Property Rights (if any) specified in Part IV of the Schedule to this Deed (which shall from today's date form part of the Specified Intellectual Property of the Chargors for the purposes of the Debenture); and

(e) charges by way of fixed charge to the UK Security Agent all of its right, title and interest in and to its Equipment.

9 English law governs this Deed, its interpretation and any non-contractual obligations arising from or connected with it.

This Deed has been entered into as a deed on the date stated at the beginning of this Deed.

SCHEDULE 1

Part I – Land

[*Insert details of any real property owned by the New Chargor*]

Part II –Shares

[Insert details of all Group Shares of the New Chargor]

Part III – Charged Accounts

Blocked Accounts

[*Insert details of all Blocked Accounts of the New Chargor*]

Other Accounts

[*Insert details of all Other Accounts of the New Chargor*]

Part IV – Specified Intellectual Property

[*Insert details of any registered Intellectual Property owned by the New Chargor*]

SIGNATORIES

[to the Deed of Accession]

The New Chargor

Executed as a deed by)
[•] LIMITED)
acting by a Director in the presence of:)

Signature of witness: _____

Name of witness: _____

Address: _____

_____

The Company
for itself and as agent for the other
Chargors party to the Debenture

Executed as a deed by)
CAMFAUD GROUP LIMITED)
acting by a Director in the presence of:)

Signature of witness: _____

Name of witness: _____

Address: _____

_____

The UK Security Agent

WELLS FARGO CAPITAL FINANCE (UK) LIMITED

By: Ian Conway

Schedule 8
Form of Guarantor Accession Letter

Date: [·]

To:

Wells Fargo Capital Finance (UK) Limited (the **UK Security Agent**)
4th Floor
90 Long Acre
London WC2E 9RA

Attention: Portfolio Manager – Camfaud

Dear Sirs

UK Debenture dated [·] **(the Agreement)**

1. We refer to the Agreement. This is a Guarantor Accession Letter. Terms defined in the Agreement have the same meaning in this Guarantor Accession Letter unless given a different meaning in this Guarantor Accession Letter.

2. [*Subsidiary*] agrees to become an Additional Guarantor and to be bound by the terms of the Agreement as an Additional Guarantor pursuant to clause [•] (*Additional Guarantors*) of the Agreement.

3. [*Subsidiary*] is a company duly incorporated under the laws of [*name of relevant jurisdiction*].

4. [*Subsidiary's*] administrative details are as follows:

Address: [·]

Fax No: [·]

Attention: [·]

This Accession Letter and any non-contractual obligations arising out of or in connection with it, are governed by English law.

[This Accession Letter is entered into by deed.]

[Company] [Subsidiary]

[SIGNATORIES
[to the Guarantor Accession Letter]

The New Guarantor
Executed as a deed by)
[●] LIMITED)
)

Director

In the presence of:

Signature of witness _____

Name _____

Address _____

Occupation _____

The Company
Executed as a deed by)
CAMFAUD GROUP LIMITED)
for itself and as agent for the other)
Guarantor party to the UK Debenture) _____

In the presence of:

Signature of witness _____

Name _____

Address _____

Occupation _____

The UK Security Agent

WELLS FARGO CAPITAL FINANCE (UK) LIMITED

Signatories

The Company

Executed as a deed by	)	
CAMFAUD GROUP LIMITED	)	
acting by a director in the presence of:	)	/s/ David Faud
Signature of witness:		/s/ Richard Crilly
Name of witness:		Richard Crilly
Address:		168 Millicent Grove
		London N13 6HS

The Chargors

Executed as a deed by	)	
CAMFAUD GROUP LIMITED	)	
acting by a director in the presence of:	)	/s/ David Faud
Signature of witness:		/s/ Richard Crilly
Name of witness:		Richard Crilly
Address:		168 Millicent Grove
		London N13 6HS

Executed as a deed by	)	
CAMFAUD CONCRETE PUMPS LIMITED	)	
acting by a director in the presence of:	)	/s/ David Faud
Signature of witness:		/s/ Richard Crilly
Name of witness:		Richard Crilly
Address:		168 Millicent Grove
		London N13 6HS

Executed as a deed by	)	
PREMIER CONCRETE PUMPING LIMITED	)	
acting by a director in the presence of:	)	/s/ David Faud
Signature of witness:		/s/ Richard Crilly
Name of witness:		Richard Crilly
Address:		168 Millicent Grove
		London N13 6HS

The Guarantors

Executed as a deed by	)	
CAMFAUD GROUP LIMITED	)	
acting by a director in the presence of:	)	/s/ David Faud
Signature of witness:		/s/ Richard Crilly
Name of witness:		Richard Crilly
Address:		168 Millicent Grove
		London N13 6HS

Executed as a deed by	)	
CAMFAUD CONCRETE PUMPS LIMITED	)	
acting by a director in the presence of:	)	/s/ David Faud
Signature of witness:		/s/ Richard Crilly
Name of witness:		Richard Crilly
Address:		168 Millicent Grove
		London N13 6HS

Executed as a deed by	)	
PREMIER CONCRETE PUMPING LIMITED	)	
acting by a director in the presence of:	)	/s/ David Faud
Signature of witness:		/s/ Richard Crilly
Name of witness:		Richard Crilly
Address:		168 Millicent Grove
		London N13 6HS

The UK Security Agent

WELLS FARGO CAPITAL FINANCE (UK) LIMITED

By: /s/ Ian Conway

Exhibit 10.33

Execution Version

PLEDGE AND SECURITY AGREEMENT

THIS PLEDGE AND SECURITY AGREEMENT (as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, this "Security Agreement") is entered into as of December 6, 2018 by and among Concrete Pumping Holdings Acquisition Corp., a Delaware corporation ("Holdings"), Concrete Pumping Intermediate Acquisition Corp., a Delaware corporation ("Intermediate Holdings"), Industrea Acquisition Corp., a Delaware corporation ("Buyer"), Concrete Pumping Merger Sub Inc., a Delaware corporation, which will be merged with and into Concrete Pumping Holdings, Inc. (to be renamed Brundage-Bone Concrete Pumping Holdings Inc.), a Delaware corporation (the "Borrower"), the Subsidiary Parties (as defined below) from time to time party hereto (the foregoing, collectively, the "Grantors") and Credit Suisse AG, Cayman Islands Branch ("Credit Suisse"), in its capacity as administrative agent and collateral agent for the Secured Parties (as defined below) (in such capacities, the "Agent").

PRELIMINARY STATEMENT

Holdings, Intermediate Holdings, Buyer, the Borrower, the Lenders, the Agent and others are entering into that certain Term Loan Agreement dated as of December 6, 2018 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Term Loan Agreement"). The Grantors are entering into this Security Agreement in order to induce the Lenders to enter into and extend credit to the Borrower under the Term Loan Agreement and to secure the Secured Obligations, including their obligations under the Loan Guaranty, each Hedge Agreement the obligations under which constitute Secured Hedging Obligations and each agreement relating to Banking Services the obligations under which constitute Banking Services Obligations.

ACCORDINGLY, the parties hereto agree as follows:

ARTICLE 1
Definitions

Section 1.01. *Terms Defined in Term Loan Agreement*. All capitalized terms used herein and not otherwise defined shall have the meanings assigned to such terms in the Term Loan Agreement.

Section 1.02. *Terms Defined in UCC*. Terms defined in the UCC that are not otherwise defined in this Security Agreement or the Term Loan Agreement are used herein as defined in Articles 8 or 9 of the UCC, as the context may require (including without limitation, as if such terms were capitalized in Article 8 or 9 of the UCC, as the context may require, the following terms: "Account," "Certificate of Title," "Chattel Paper," "Commercial Tort Claim," "Commodity Account," "Deposit Account," "Document," "Electronic Chattel Paper," "Equipment," "Fixture," "General Intangible," "Goods," "Instruments," "Inventory," "Investment Property," "Letter-of-Credit Right," "Securities Account," "Securities Entitlement," "Supporting Obligation" and "Tangible Chattel Paper").

Section 1.03. *Definitions of Certain Terms Used Herein*. As used in this Security Agreement, in addition to the terms defined in the preamble and Preliminary Statement above and Sections 1.01 and 1.02, the following terms shall have the following meanings:

"Agent" has the meaning set forth in the preamble.

"Article" means a numbered article of this Security Agreement, unless another document is specifically referenced.

"Borrower" has the meaning specified in the preamble.

"Collateral" has the meaning set forth in Article 2.

"Contract Rights" means all rights of any Grantor under any Contract, including, without limitation, (i) any and all rights to receive and demand payments under such Contract, (ii) any and all rights to receive and compel performance under such Contract and (iii) any and all other rights, interests and claims now existing or in the future arising in connection with such Contract.

"Contracts" means all contracts between any Grantor and one or more additional parties (including, without limitation, any Hedge Agreement, licensing agreement and any partnership agreement, joint venture agreement and/or limited liability company agreement).

"Control" has the meaning set forth in Article 8 or, if applicable, in Section 9-104, 9-105, 9-106 or 9-107 of Article 9 of the UCC.

"Copyrights" means, with respect to any Grantor, all of such Grantor's right, title and interest in and to any and all (i) copyrights, rights and interests in such copyrights, works protectable by copyright whether published or unpublished, copyright registrations and copyright applications; (ii) renewals of any of the foregoing; (iii) income, royalties, damages, and payments now or hereafter due and/or payable under any of the foregoing, including, without limitation, damages or payments for past or future infringements for any of the foregoing; (iv) rights to sue for past, present and future infringements of any of the foregoing; and (v) rights corresponding to any of the foregoing throughout the world.

"Credit Suisse" has the meaning set forth in the preamble.

"Cumulative Perfection Certificate" means, together, the Perfection Certificate delivered pursuant to Section 4.01(i) of the Term Loan Agreement and the Perfection Certificate delivered pursuant to Section 5.12(a) of the Term Loan Agreement, in each case, as supplemented from time to time as a result of the delivery of any Perfection Certificate Supplement pursuant to Section 5.01(j) of the Term Loan Agreement.

"Domain Names" means all Internet domain names and associated URL addresses in or to which any Grantor now or hereafter has any right, title or interest.

"Exclusive Copyright License" means any License granting to any Grantor any exclusive right under any copyright registered with the United States Copyright Office.

"Exhibit" refers to a specific exhibit to this Security Agreement, unless another document is specifically referenced.

"Grantors" has the meaning set forth in the preamble.

"Holdings" has the meaning set forth in the preamble.

"Intellectual Property Collateral" means, with respect to any Grantor, collectively, any and all intellectual property and other similar proprietary rights throughout the world now owned or hereafter acquired by such Grantor, including any and all Copyrights, Patents, Trademarks, Trade Secrets, Domain Names, Licenses, Software, design rights, database rights, and all documentation, registrations, additions, improvements, accessions and goodwill associated with the foregoing.

"Intellectual Property Security Agreement" means an Intellectual Property Security Agreement substantially in the form of Exhibit B hereto.

"Licenses" means, with respect to any Grantor, all of such Grantor's right, title, and interest in and to (a) any and all licensing agreements or similar arrangements, whether as licensor or licensee, in (1) Patents, (2) Copyrights, (3) Trademarks, (4) Trade Secrets or (5) Software, (b) all income, royalties, damages, claims, and payments now or hereafter due or payable under and with respect thereto, including, without limitation, damages and payments for past and future breaches thereof and (c) all rights to sue for past, present, and future breaches thereof.

"Money" has the meaning set forth in Article 1 of the UCC.

"Patents" means, with respect to any Grantor, all of such Grantor's right, title and interest in and to any and all (i) patents and patent applications; (ii) inventions described and claimed therein, (iii) reissues, divisions, continuations, renewals, extensions, and continuations-in-part thereof, (iv) income, royalties, damages, claims and payments now or hereafter due or payable under and with respect thereto, including, without limitation, damages and payments for past and future infringements thereof, (v) rights to sue for past, present and future infringements thereof, and (vi) rights corresponding to any of the foregoing throughout the world.

"Permits" shall mean, all licenses, permits, rights, orders, variances, franchises or authorizations of or from any Governmental Authority or agency.

"Pledged Collateral" means all Pledged Stock, including all stock certificates, options or rights of any nature whatsoever in respect of the Pledged Stock that may be issued or granted to, or held by, any Grantor while this Security Agreement is in effect, all Instruments, Securities and other Investment Property owned by any Grantor, whether or not physically delivered to the Agent pursuant to this Security Agreement, whether now owned or hereafter acquired by such Grantor and any and all Proceeds thereof.

"Pledged Stock" means, with respect to any Grantor, the shares of Capital Stock described in Schedule 3 to the Cumulative Perfection Certificate as held by such Grantor, together with any other shares of Capital Stock required to be pledged by such Grantor pursuant to the terms hereof.

"Proceeds" has the meaning assigned in Article 9 of the UCC and, in any event, shall also include but not be limited to (i) any and all proceeds of any insurance, indemnity, warranty or guaranty payable to the Agent or any Grantor from time to time with respect to any of the Collateral, (ii) any and all payments (in any form whatsoever) made or due and payable to any Grantor from time to time in connection with any requisition, confiscation, condemnation, seizure or forfeiture of all or any part of the Collateral by any Governmental Authority (or any Person acting under color of governmental authority), (iii) any and all Stock Rights and (iv) any and all other amounts from time to time paid or payable under or in connection with any of the Collateral.

"Receivables" means any Account, Chattel Paper, Document, Investment Property, Instrument and/or any General Intangible, in each case, that is a right or claim to receive money (whether or not earned by performance).

"Section" means a numbered section of this Security Agreement, unless another document is specifically referenced.

"Security Agreement" has the meaning set forth in the preamble.

"Software" means, with respect to any Grantor, all of such Grantor's right, title and interest in and to any and all computer programs, source code, object code and supporting documentation including "software" as such term is defined in Article 9 of the UCC, as well as computer programs that may be construed as included in the definition of Goods.

"Stock Rights" means all dividends, instruments or other distributions and any other right or property which any Grantor shall receive or shall become entitled to receive for any reason whatsoever with respect to, in substitution for or in exchange for any Capital Stock constituting Collateral, any right to receive any Capital Stock constituting Collateral and any right to receive earnings, in which such Grantor now has or hereafter acquires any right, issued by an issuer of such Capital Stock.

"Subsidiary Parties" means (a) the subsidiaries of the Borrower party hereto on the Closing Date and (b) each Domestic Subsidiary that becomes a party to this Security Agreement after the date hereof in accordance with Section 5.10 hereof and Section 5.12 of the Term Loan Agreement.

"Term Loan Agreement" has the meaning set forth in the Preliminary Statement.

"Titled Equipment" shall mean any and all Equipment and Inventory represented (or required to be represented) by a Certificate of Title issued under the law of a State in the United States, including any licensed vehicle, truck or trailer.

"Trade Secrets" means, with respect to any Grantor, all of such Grantor's right, title and interest in and to any and all trade secrets, including any and all (i) confidential or proprietary information, including unpatented inventions, invention disclosures, engineering or other data, information, production procedures, know-how, financial data, customer lists, supplier lists, business and marketing plans, processes, schematics, algorithms, techniques, analyses, proposals, source code, data, databases and data collections; (ii) income, royalties, damages, and payments now or hereafter due or payable with respect thereto, including, without limitation, damages, claims and payments for past and future misappropriations or infringements thereof; (iii) rights to sue for past, present and future infringements or misappropriations of the foregoing, including the right to settle suits involving claims and demands for royalties owing; and (iv) rights corresponding to any of the foregoing throughout the world.

"Trademark" means, with respect to any Grantor, all of such Grantor's right, title and interest in and to any and all (i) trademarks (including service marks), common law marks, trade names, trade dress, and logos, slogans and other indicia of origin under the applicable law of any jurisdiction in the world, and the registrations and applications for registration thereof and the goodwill of the business symbolized by the foregoing, (ii) renewals of the foregoing, (iii) income, royalties, damages, and payments now or hereafter due or payable with respect thereto, including, without limitation, damages, claims, and payments for past and future infringements or dilutions thereof, (iv) rights to sue for past, present and future infringements or dilutions of the foregoing, including the right to settle suits involving claims and demands for royalties owing, and (v) rights corresponding to any of the foregoing throughout the world.

The foregoing definitions shall be equally applicable to both the singular and plural forms of the defined terms.

ARTICLE 2
Grant of Security Interest

Section 2.01. *Grant of Security Interest*. (a) As security for the prompt and complete payment or performance, as the case may be, in full of the Secured Obligations, each Grantor hereby pledges, collaterally assigns, mortgages, transfers and grants to the Agent, its successors and permitted assigns, on behalf of and for the ratable benefit of the Secured Parties, a continuing security interest in all of its right, title and interest in, to all of the following personal property and other assets, whether now owned by or owing to, or hereafter acquired by or arising in favor of such Grantor, and regardless of where located (all of which are collectively referred to as the "Collateral"):

(i) all Accounts;

(ii) all Chattel Paper (including, without limitation, all Tangible Chattel Paper and all Electronic Chattel Paper);

(iii) all Documents;

(iv) all Equipment;

(v) all Fixtures;

(vi) all General Intangibles;

(vii) all Goods;

(viii) all Instruments;

(ix) all Intellectual Property Collateral;

(x) all Inventory; including goods that are returned, repossessed, stopped in transit or which are otherwise owned by any Grantor;

(xi) all Investment Property, Pledged Stock and other Pledged Collateral;

(xii) all Money, cash and cash equivalents;

(xiii) all letters of credit and Letter-of-Credit Rights;

(xiv) all Deposit Accounts, Securities Accounts, Commodity Accounts and all other demand, deposit, time, savings, cash management, passbook and similar accounts maintained by such Grantor with any bank or other financial institution and all monies, securities, Instruments and other investments deposited or required to be deposited in any of the foregoing;

(xv) all Securities Entitlements in any or all of the foregoing;

(xvi) all Commercial Tort Claims described on Schedule 6 to the Cumulative Perfection Certificate (including any supplements to such Schedule 6 delivered pursuant to Section 4.04);

(xvii) all Permits;

(xviii) all recorded data of any kind or nature, regardless of the medium of recording;

(xix) all Contracts, together with all Contract Rights arising thereunder;

(xx) all Titled Equipment;

(xxi) all other personal property not otherwise described in clauses (i) through (xix) above;

(xxii) all Supporting Obligations; and

(xxiii) all accessions to, substitutions and replacements for and Proceeds and products of the foregoing, together with all books and records, customer lists, credit files, computer files, programs, printouts and other computer materials and records related thereto and any General Intangibles at any time evidencing or relating to any of the foregoing and all collateral security and guarantees given by any Person with respect to any of the foregoing.

(b) Notwithstanding the foregoing, the term "Collateral" (and any component definition thereof) shall not include any Excluded Asset. Notwithstanding anything to the contrary contained herein, immediately upon the ineffectiveness, lapse or termination of any restriction or condition set forth in the definition of "Excluded Assets" in the Term Loan Agreement, the Collateral shall include, and each relevant Grantor shall be deemed to have automatically granted a security interest in, all relevant previously restricted or conditioned rights, interests or other assets, as the case may be, as if such restriction or condition had never been in effect.

ARTICLE 3
Representations and Warranties

The Grantors, jointly and severally, represent and warrant to the Agent as of the date hereof, and as and when required under the Term Loan Agreement, for the benefit of the Secured Parties, that:

Section 3.01. *Title, Perfection and Priority; Filing Collateral*. Subject to the Legal Reservations, this Security Agreement is effective to create a legal, valid and enforceable Lien on and security interest in the Collateral in favor of the Agent for the benefit of the Secured Parties and, subject to the terms of the last paragraph of Section 4.01 of the Term Loan Agreement and the satisfaction of the Perfection Requirements and the Intercreditor Agreement, the Agent will have a fully perfected first priority Lien (subject to Permitted Liens) on such Collateral to the extent required hereby.

Section 3.02. *Intellectual Property*.

(a) Upon filing of appropriate financing statements with the Secretary of State (or equivalent office) of the state of organization of such Grantor and the filing of the Intellectual Property Security Agreement with the United States Copyright Office or the United States Patent and Trademark Office, as applicable, the Agent shall have a fully perfected first priority Lien (subject to Permitted Liens) on the Collateral constituting United States issued, registered or applied for Patents, Trademarks, Copyrights and Exclusive Copyright Licenses under the UCC and the laws of the U.S. for the ratable benefit of the Secured Parties, and such perfected security interests shall be enforceable as such as against any and all creditors of and purchasers from the Grantors, subject to the Legal Reservations.

(b) No Grantor is aware of (i) any third-party claim (A) alleging that any of the Intellectual Property Collateral is invalid or unenforceable, or (B) challenging such Grantor's rights in any of the Intellectual Property Collateral, (ii) any basis for any such third-party claim, or (iii) any breach or default of any License, other than, in each case, to the extent any such third-party claim or breach or default of any License would not reasonably be expected to have a Material Adverse Effect.

Section 3.03. *Pledged Collateral.* (i) All Pledged Stock has been duly authorized and validly issued (to the extent such concepts are relevant with respect to such Pledged Collateral) by the issuer thereof and is fully paid and non-assessable, (ii) each Grantor is the direct owner, beneficially and of record, of the Pledged Stock described in Schedule 3 to the Cumulative Perfection Certificate as held by such Grantor and (iii) each Grantor holds the Pledged Stock described in Schedule 3 to the Cumulative Perfection Certificate as held by such Grantor free and clear of all Liens (other than Permitted Liens).

Section 3.04. *Perfection Certificate*. The Cumulative Perfection Certificate has been duly prepared, completed and executed and the certifications set forth therein are true and correct in all material respects as of the date thereof.

Section 3.05. *Recourse*. Except as otherwise limited herein or in any other Loan Document, this Security Agreement is made with full recourse to each Grantor and pursuant to and upon all the warranties, representations, covenants and agreements on the part of such Grantor contained herein, in the Loan Documents and otherwise in writing in connection herewith and therewith.

Section 3.06. *Titled Equipment.* Each Grantor is the true, lawful, sole and exclusive owner of or otherwise has the right to use the Titled Equipment of such Grantor. All Titled Equipment that such Grantor owns or uses in connection with its business as of the Closing Date, or the date of the most recent update thereto, as applicable, with a fair market value (as determined in good faith by the Borrower) in excess of $150,000 is set forth on Schedule 8 to the Cumulative Perfection Certificate (including the vehicle identification numbers, state or province of registration, net book value and (in the case of any such Titled Equipment acquired after the Closing Date) the date of acquisition thereof). Upon (i) completion of the actions contemplated by Section 4.07 hereof (which actions have been taken, if this representation and warranty is being made after the date by which such actions are required to have been taken pursuant to Section 4.07 hereof) and (ii) if required for perfection under the law of the relevant jurisdiction, receipt by Agent of official notification from the applicable Governmental Authority of the perfection of the security interest in Titled Equipment contemplated hereby, all filings, registrations, recordings and other actions shall have been taken such that Titled Equipment shall be subject to the duly perfected security interest of Agent for the benefit of the Secured Parties. Such security interest shall be prior to any other Lien other than Permitted Liens.

ARTICLE 4
Covenants

From the date hereof, and thereafter until the Termination Date (and in each case subject to Section 5.12 of the Credit Agreement):

Section 4.01. *General.*

(a) *Authorization to File Financing Statements; Ratification.* Each Grantor hereby (i) authorizes the Agent to file (A) all financing statements (including fixture filings) and amendments thereto with respect to the Collateral naming such Grantor as debtor and the Agent as secured party, in form appropriate for filing under the UCC of the relevant jurisdiction, (B) filings with the United States Patent and Trademark Office and the United States Copyright Office (including any Intellectual Property Security Agreement) for the purpose of perfecting, enforcing, maintaining or protecting the Lien of the Agent in United States issued, registered and applied for Patents, Trademarks, Copyrights and Exclusive Copyright Licenses and naming such Grantor as debtor and the Agent as secured party, and (C) other documents for the purpose of perfecting, confirming, continuing, enforcing or protecting the security interest granted by such Grantor hereunder and, (ii) subject to the terms of the Loan Documents, agrees to take such other actions, in each case as may from time to time be necessary or otherwise reasonably requested by the Agent (and authorizes the Agent to take any such other actions, which it has no obligation to take) in order to establish and maintain a first priority, valid, enforceable (subject to the Legal Reservations) and perfected security interest in and subject, in the case of Pledged Collateral, to Section 4.02, Control of, the Collateral, subject only to Permitted Liens. Each Grantor (or the Borrower, in place of any Grantor) shall pay any applicable filing fees, recordation fees and related expenses relating to its Collateral in accordance with Section 9.03(a) of the Term Loan Agreement. Any financing statement filed by the Agent may be filed in any filing office in any applicable UCC jurisdiction and may (i) indicate the Collateral (A) as all assets of the applicable Grantor or words of similar effect, regardless of whether any particular asset comprised in the Collateral falls within the scope of Article 9 of the UCC of such jurisdiction, or (B) by any other description which reasonably approximates the description contained in this Security Agreement and (ii) contain any other information required by part 5 of Article 9 of the UCC for the sufficiency or filing office acceptance of any financing statement or amendment, including (A) in each case to the extent applicable, whether the applicable Grantor is an organization, the type of organization and any organization identification number issued to such Grantor and (B) in the case of a financing statement filed as a fixture filing, a sufficient description of the relevant real property to which the Collateral relates. Each Grantor agrees to furnish any such information to the Agent promptly upon request.

(b) *Further Assurances*. Each Grantor agrees, at its own expense (or the expense of the Borrower), to take any and all actions (i) reasonably necessary to defend title to the Collateral against all Persons (other than Persons holding Permitted Liens on such Collateral that have priority over the Agent's Lien) and to defend the security interest of the Agent in the Collateral and the priority thereof against any Lien that is not a Permitted Lien or (ii) as the Agent may reasonably request in order to create, perfect and maintain the security interest of Agent in any of the Intellectual Property Collateral.

Section 4.02. *Pledged Collateral.*

(a) *Delivery of Certificated Securities, Tangible Chattel Paper and Instruments*. Each Grantor will, subject to the last paragraph of Section 4.01 of the Term Loan Agreement and the Intercreditor Agreement, (i) on the Closing Date, deliver to the Agent for the benefit of the Secured Parties, the originals of all (x) certificated Securities and (y) Tangible Chattel Paper and Instruments, in each case under this clause (y), having a face amount in excess of $2,500,000, but in each case under clauses (x) and (y), constituting Pledged Collateral owned by such Grantor as of the Closing Date, accompanied by undated instruments of transfer or assignment duly executed in blank, (ii) after the Closing Date, hold in trust for the Agent upon receipt and, (x) if the event giving rise to the obligation under this Section 4.02(a) occurs during the first three Fiscal Quarters of any Fiscal Year, on or before the date on which financial statements are required to be delivered pursuant to Section 5.01(a) of the Term Loan Agreement for the Fiscal Quarter in which the relevant event occurred or (y) if the event giving rise to the obligation under this Section 4.02(a) occurs during the fourth Fiscal Quarter of any Fiscal Year, on or before the date that is 90 days after the end of such Fiscal Quarter (or, in each of the cases of clauses (x) and (y), such longer period as the Agent may reasonably agree), deliver to the Agent for the benefit of the Secured Parties any (1) certificated Securities representing or evidencing Pledged Collateral and (2) Tangible Chattel Paper and Instruments (A) in each case under this clause (2), having an outstanding balance in excess of $2,500,000 and (B) in each case under clauses (1) and (2), constituting Collateral received after the date hereof, accompanied by undated instruments of transfer or assignment duly executed in blank and (iii) at any time when an Event of Default then exists and upon the Agent's request, deliver to the Agent, and prior to such delivery, hold in trust for the Agent upon receipt, any other Document evidencing or constituting such Collateral.

(b) *Uncertificated Securities and Pledged Collateral.* With respect to any partnership interest or limited liability company interest owned by any Grantor which is required to be pledged to the Agent pursuant to the terms hereof (other than a partnership interest or limited liability company interest held by a Securities Intermediary or other financial intermediary of any kind) which is not represented by a certificate and which is not a Security for purposes of the UCC, such Grantor shall not permit any issuer of such partnership interest or limited liability company interest to (i) enter into any agreement with any Person, other than the Agent or any holder of a Permitted Lien, whereby such issuer effectively delivers "control" of such partnership interest or limited liability company interest (as applicable) under the UCC to such Person, or (ii) allow such partnership interest or limited liability company interest (as applicable) to become a Security unless such Grantor complies with the procedures set forth in Section 4.02(a) within the time period prescribed therein. Each Grantor which is an issuer of any uncertificated Pledged Collateral described in this Section 4.02(b) hereby agrees to comply with all instructions from the Agent without such Grantor's further consent, in each case subject to the notice requirements set forth in Section 5.01(a)(iv) hereof.

(c) *Registration in Nominee Name; Denominations.* Subject to the terms of the Intercreditor Agreement, the Agent, on behalf of the Secured Parties, shall hold certificated Pledged Collateral required to be delivered to the Agent under clause (a) above in the name of the applicable Grantor, endorsed or assigned in blank or in favor of the Agent, but at any time when an Event of Default exists and upon at least three Business Days' notice to the Borrower, the Agent shall have the right (in its sole and absolute discretion), subject to the Intercreditor Agreement, to hold the Pledged Collateral in its own name as pledgee, or in the name of its nominee (as pledgee or as sub-agent). At any time when an Event of Default exists, the Agent shall have the right to exchange the certificates representing Pledged Collateral for certificates of smaller or larger denominations for any purpose consistent with this Security Agreement.

(d) *Exercise of Rights in Pledged Collateral.* Subject, in each case, to the Intercreditor Agreement, it is agreed that:

(i) without in any way limiting the foregoing and subject to clause (ii) below, each Grantor shall have the right to exercise all voting rights or other rights relating to the Pledged Collateral for any purpose that does not violate this Security Agreement, the Term Loan Agreement or any other Loan Document;

(ii) each Grantor will permit the Agent or its nominee at any time when an Event of Default exists to exercise the rights and remedies provided under Section 5.01(a)(iv) (subject to the notice requirements set forth therein); and

(iii) subject to Section 5.01(a)(iv), each Grantor shall be entitled to receive and retain any and all dividends, interest, principal and other distributions paid on or distributed in respect of the Pledged Collateral; provided that any non-cash dividends or other distributions that would constitute Pledged Collateral, whether resulting from a subdivision, combination or reclassification of the outstanding Capital Stock of the issuer of any Pledged Collateral or received in exchange for Pledged Collateral or any part thereof, or in redemption thereof, or as a result of any merger, consolidation, acquisition or other exchange of assets to which such issuer may be a party or otherwise, shall, to the extent constituting Collateral, be and become part of the Pledged Collateral, and, if received by any Grantor, shall be delivered to the Agent as and to the extent required by clause (a) above.

(e) *Return of Pledged Collateral.* So long as no Event of Default then exists, the Agent shall promptly deliver to the applicable Grantor (without recourse and without any representation or warranty) any Pledged Collateral in its possession if requested to be delivered to the issuer or holder thereof in connection with any action or transaction (requiring delivery or possession of such Pledged Collateral) that is permitted or not restricted by the Term Loan Agreement in accordance with Article 8 of the Term Loan Agreement.

Section 4.03. *Intellectual Property*. (a) At any time when an Event of Default exists and upon the written request of the Agent, each Grantor will (i) use its commercially reasonable efforts to obtain all consents and approvals necessary or appropriate for the assignment to or for the benefit of the Agent of any License held by such Grantor to enable the Agent to enforce the security interests granted hereunder and (ii) to the extent required pursuant to any License under which such Grantor is the licensee, deliver to the licensor thereunder any notice of the grant of security interest hereunder or such other notices required to be delivered thereunder in order to permit the security interest created or permitted to be created hereunder pursuant to the terms of such License.

(b) Each applicable Grantor having rights in any Intellectual Property Collateral shall, on the date hereof, execute and deliver to the Agent an Intellectual Property Security Agreement substantially in the form of Exhibit B, in order to record the security interest granted herein to the Agent for the benefit of the Agent and the Secured Parties with the United States Patent and Trademark Office and the United States Copyright Office, as applicable.

(c) Each Grantor shall notify the Agent promptly if it knows or reasonably expects that any application for or registration of any Patent, Trademark, Domain Name, or Copyright (now or hereafter existing) may become abandoned or dedicated to the public, or of any determination or development (including the institution of, or any such determination or development in, any proceeding in the United States Patent and Trademark Office, the United States Copyright Office or any court) abandoning such Grantor's ownership of any such Patent, Trademark or Copyright, its right to register the same, or to keep and maintain the same, except, in each case, to the extent the same is permitted or not restricted by the Term Loan Agreement.

(d) In the event that any Grantor, either directly or through any agent, employee, licensee or deisgnee, (i) files an application for the registration of any Patent, Trademark, Copyright with the United States Patent and Trademark Office or the United States Copyright Office (as applicable), (ii) acquires any registration or application for registration of any United States Patent, Trademark or Copyright, or (iii) acquires or becomes a party to any Exclusive Copyright License, in each case, after the Closing Date (and other than as a result of an application that is then included in the schedules to an executed Intellectual Property Security Agreement), it shall, (x) if the event giving rise to the obligation under this Section 4.03(c) occurs during the first three Fiscal Quarters of any Fiscal Year, on or before the date on which financial statements are required to be delivered pursuant to Section 5.01(a) of the Term Loan Agreement for the Fiscal Quarter in which the relevant event occurred or (y) if the event giving rise to the obligation under this Section 4.03(c) occurs during the fourth Fiscal Quarter of any Fiscal Year, on or before the date that is 90 days after the end of such Fiscal Quarter (or, in the case of each of clauses (x) and (y), such longer period as the Agent may reasonably agree), notify the Agent in writing thereof and, promptly upon the Agent's request, execute and deliver to the Agent, at such Grantor's sole cost and expense, a supplemental Intellectual Property Security Agreement and/or any other instrument as the Agent may reasonably request and require to evidence the Agent's security interest in such registered Patent, Trademark, Copyright (or application therefor) or such Exclusive Copyright License, and the General Intangibles of such Grantor relating thereto or represented thereby.

(e) Each Grantor shall (and shall use commercially reasonable efforts to cause all its licensees to) take all actions necessary or reasonably requested by the Agent to (i) maintain and pursue each application and to obtain and maintain the registration of each Patent, Trademark, Domain Name and Copyright included in the Collateral (now or hereafter existing), including by filing applications for renewal, affidavits of use, affidavits of noncontestability and, if consistent with good business judgment, by initiating opposition and interference and cancellation proceedings against third parties, (ii) maintain and protect the secrecy or confidentiality of its Trade Secrets and (iii) otherwise maintain, protect, enforce and preserve such Grantor's rights in, and the validity and enforceability of, its Intellectual Property Collateral, in each case except where failure to do so (A) could not reasonably be expected to result in a Material Adverse Effect, or (B) is otherwise permitted under the Term Loan Agreement.

(f) Each Grantor shall (i) promptly notify the Agent of any infringement, misappropriation, dilution or other violation of such Grantor's Intellectual Property Collateral of which it becomes aware and (ii) take such actions as are reasonable and appropriate under the circumstances to protect such Intellectual Property Collateral (including, if such Grantor deems it necessary in its reasonable business judgment, to promptly sue for infringement, misappropriation, dilution or other violation of such Intellectual Property Collateral and to recover any and all damages for such infringement, misappropriation, dilution or other violation), in each case, except where such infringement, misappropriation, dilution or other violation could not reasonably be expected to cause a Material Adverse Effect.

Section 4.04. *Commercial Tort Claims*. After the Closing Date, (i) if the event giving rise to the obligation under this Section 4.04 occurs during the first three Fiscal Quarters of any Fiscal Year, on or before the date on which financial statements are required to be delivered pursuant to Section 5.01(a) of the Term Loan Agreement for the Fiscal Quarter in which the relevant event occurred or (ii) if the event giving rise to the obligation under this Section 4.04 occurs during the fourth Fiscal Quarter of any Fiscal Year, on or before the date that is 45 days after the end of such Fiscal Quarter (or, in each of the cases of clauses (i) and (ii), such longer period as the Agent may reasonably agree), each relevant Grantor shall notify the Agent of any Commercial Tort Claim with an individual value (as reasonably estimated by the Borrower) in excess of $2,500,000 acquired by it, together with an update to Schedule 6 to the Cumulative Perfection Certificate containing a summary description thereof, and such Commercial Tort Claim (and the Proceeds thereof) shall automatically constitute Collateral, all upon the terms of this Security Agreement.

Section 4.05. *Insurance*. Subject to the Intercreditor Agreement and except to the extent otherwise permitted to be retained by any Grantor or applied by any Grantor pursuant to the terms of the Loan Documents, the Agent shall, at the time any proceeds of any insurance are distributed to the Secured Parties, apply such proceeds in accordance with Section 5.04 hereof.

Section 4.06. *Grantors Remain Liable.* (a) Each Grantor (rather than the Agent or any Secured Party) shall remain liable (as between itself and any relevant counterparty) to observe and perform all the conditions and obligations to be observed and performed by it under any Contract or other agreement or instrument relating to the Collateral, all in accordance with the terms and conditions thereof. Neither the Agent nor any other Secured Party shall have any obligation or liability under any Contract by reason of or arising out of this Security Agreement or the receipt by the Agent or any other Secured Party of any payment relating to such Contract pursuant hereto, nor shall the Agent or any other Secured Party be obligated in any manner to perform any of the obligations of any Grantor under or pursuant to any Contract, to make any payment, to make any inquiry as to the nature or sufficiency of any performance or to collect the payment of any amounts which may have been assigned to them or to which they may be entitled at any time or times.

(b) Each Grantor assumes all liability and responsibility in connection with the Collateral acquired by it, and the liability of such Grantor to pay the Secured Obligations shall in no way be affected or diminished by reason of the fact that such Collateral may be lost, destroyed, stolen, damaged or for any reason whatsoever unavailable to such Grantor.

(c) Notwithstanding anything herein to the contrary, each Grantor (rather than the Agent or any Secured Party) shall remain liable under each of the Accounts to observe and perform all of the conditions and obligations to be observed and performed by it thereunder, all in accordance with the terms of any agreement giving rise to such Accounts. Neither the Agent nor any other Secured Party shall have any obligation or liability under any Account (or any agreement giving rise thereto) by reason of or arising out of this Security Agreement or the receipt by the Agent or any other Secured Party of any payment relating to such Account pursuant hereto, nor shall the Agent or any other Secured Party be obligated in any manner to perform any of the obligations of any Grantor under or pursuant to any Account (or any agreement giving rise thereto), to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by them or as to the sufficiency of any performance by any party under any Account (or any agreement giving rise thereto), to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to them or to which they may be entitled at any time or times.

Section 4.07. *Titled Equipment*. (a) each Grantor shall complete, on or prior to the date that is 60 days following the Closing Date (or such later date as the Agent agrees in its sole discretion), all actions necessary in order to perfect the security interest of the Secured Parties in any Titled Equipment owned by a Grantor on the Closing Date, including (i) cause to be delivered to the applicable Governmental Authority a duly completed application, pay any applicable fees and take any other actions necessary in order to cause the certificate of title for such Titled Equipment at all times to be registered with the applicable Governmental Authority showing "Credit Suisse AG, Cayman Islands Branch, as Agent" as first lienholder thereon in the manner prescribed in the applicable jurisdiction (and Credit Suisse AG, Cayman Islands Branch in such capacity shall be the only first lienholder so registered), (ii) if necessary to perfect in any jurisdiction, cause the Lien of Agent to be identified on a notice of lien or other filing made in the appropriate filing office in the applicable jurisdiction and pay all applicable fees in connection therewith, (iii) provide Agent evidence reasonably satisfactory to it of the taking of the actions referred to in the preceding clauses (i) and (ii), and (iv) deliver the certificates of title for such Titled Equipment to Agent. Promptly following the receipt by any Grantor of any document evidencing official notification from the applicable Governmental Authority of the perfection of the security interest in any Titled Equipment (and in any event within five (5) Business Days thereof), such Grantor shall deliver such notification to Agent; *provided*, that no Grantor shall be required to take the actions described in this Section 4.07 in respect of Titled Equipment to the extent the fair market value of such Titled Equipment for which any such actions are not taken is less than $150,000.

(b) With respect to all Titled Equipment from time to time after the Closing Date acquired by any Grantor, the Borrower shall, (x) if the event giving rise to the obligation under this Section 4.07(b) occurs during the first three Fiscal Quarters of any Fiscal Year, on or before the date on which financial statements are required to be delivered pursuant to Section 5.01(a) of the Credit Agreement for the Fiscal Quarter in which the acquisition occurred (provided that if such date is less than 60 days after the relevant formation, acquisition, designation or cessation occurred, then the date in this clause (x) shall be deemed to be the date that is 60 days after the relevant acquisition occurred), or (y) if the event giving rise to the obligation under this Section 4.07(b) occurs during the fourth Fiscal Quarter of any Fiscal Year, on or before the date that is 60 days after the end of such Fiscal Quarter (or, in the cases of clauses (x) and (y), such longer period as the Administrative Agent may reasonably agree), deliver to the Agent a Perfection Certificate Supplement with an updated Schedule 8 to the Cumulative Perfection Certificate, and the relevant Grantor shall, take all actions required by Section 4.07(a) above in order to perfect the security interest of the Secured Parties in newly acquired Titled Equipment set forth on such revised Schedule 8 to the Cumulative Perfection Certificate.

(c) Each Grantor agrees to execute all documentation reasonably required to cause the registrations and filings with the applicable Governmental Authority referred to in paragraph (a) of this Section 4.07 above to be accomplished within the periods specified in this Section 4.07. Each Grantor hereby grants to Agent an absolute power of attorney to sign, upon the occurrence and during the continuance of an Event of Default, any document or instrument, and to make such filings, recordings and registrations, as may be required by the relevant Governmental Authority in order to effect an absolute assignment of all right, title and interest in any Titled Equipment.

(d) Each Grantor will keep Titled Equipment with a fair market value of $150,000 or greater (other than (i) Titled Equipment sold in the ordinary course of business in accordance with the Term Loan Agreement or (ii) Titled Equipment out for repair or refurbishment or out on assignment) within the states specified in Schedule 8 to the Cumulative Perfection Certificate or, upon not less than five (5) days' prior written notice (or such shorter period as the Agent may agree) to the Agent indicating each new location of the Titled Equipment, at such locations in the continental United States as the Grantors may elect, accompanied by a new Schedule 8 to the Cumulative Perfection Certificate; *provided*, that within 60 days of the relocation of any such Titled Equipment (or such later date as the Agent agrees in its sole discretion) the applicable Grantor shall take all actions required by Section 4.07(a) above in such new jurisdiction necessary to maintain or create the perfection and priority of the security interest of the Secured Parties in such Titled Equipment (subject only to Permitted Liens).

(e) Each Grantor will maintain and preserve, all of its Titled Equipment which is necessary or useful in the proper conduct of its business in good working order and condition, ordinary wear and tear and casualty excepted.

Section 4.08. *Controlled Accounts*. Each relevant Grantor shall, within the time period prescribed in the relevant "Loan Documents" (as defined in the ABL Credit Agreement) use commercially reasonable efforts to join the Agent as a party to any Account Control Agreement or securities account control agreement entered into under the terms of the "Loan Documents" (as defined in the ABL Credit Agreement); provided, however, that the requirement set forth in this Section 4.08 shall be deemed satisfied for so long as the ABL Collateral Agent is acting as agent for the benefit of the Agent and the Secured Parties pursuant to the Intercreditor Agreement with respect to any Account Control Agreement or securities account control agreement to which the ABL Collateral Agent is a party; provided, further, however, that after the discharge of the obligations under the ABL Facility, in no event shall any Grantor be required to execute or deliver (or maintain in effect) any Account Control Agreement or securities account control agreement.

ARTICLE 5
Remedies

Section 5.01. *Remedies*. (a) Each Grantor agrees that, at any time when an Event of Default exists, the Agent may exercise any or all of the following rights and remedies (in addition to the rights and remedies existing under applicable Requirements of Law):

(i) the rights and remedies provided in this Security Agreement, the Term Loan Agreement, or any other Loan Document; provided that this Section 5.01(a) shall not limit any rights available to the Agent or the Lenders prior to an Event of Default;

(ii) the rights and remedies available to a secured party under the UCC (whether or not the UCC applies to the affected Collateral) or under any other applicable Requirements of Law (including, without limitation, any law governing the exercise of a bank's right of setoff or bankers' Lien) when a debtor is in default under a security agreement;

(iii) without notice (except as specifically provided in Section 7.01 or elsewhere herein), demand or advertisement of any kind to any Grantor or any other Person, personally, or by agents or attorneys, enter the premises of any Grantor where any Collateral is located (through self-help and without judicial process) to collect, receive, assemble, process, appropriate, sell, lease, assign, grant an option or options to purchase or otherwise dispose of, deliver, or realize upon, the Collateral or any part thereof in one or more parcels at one or more public or private sales (which sales may be adjourned or continued from time to time with or without notice and may take place at such Grantor's premises or elsewhere), for cash, on credit or for future delivery without assumption of any credit risk, and upon such other terms as the Agent may deem commercially reasonable;

(iv) upon at least three Business Days' written notice to the Borrower, transfer and register in its name or in the name of its nominee the whole or any part of the Pledged Collateral, to exercise the voting and all other rights as a holder with respect thereto (whereupon the voting and other rights of such Grantor described in Section 4.02(d)(i) above shall immediately cease such that the Agent shall have the sole right to exercise such voting and other rights while the relevant Event of Default exists), to collect and receive all cash dividends, interest, principal and other distributions made thereon (it being understood that all Stock Rights received by any Grantor while the relevant Event of Default exists shall be received in trust for the benefit of the Agent and forthwith paid over to the Agent in the same form as so received (with any necessary endorsements)) and to otherwise act with respect to the Pledged Collateral as though the Agent was the outright owner thereof; and

(v) to take possession of the Collateral or any part thereof, by directing such Grantor in writing to deliver the same to the Agent at any reasonable place or places designated by the Agent, in which event such Grantor shall at its own expense:

(1) forthwith cause the same to be moved to the place or places so designated by the Agent and there delivered to the Agent;

(2) store and keep any Collateral so delivered to the Agent at such place or places pending further action by the Agent; and

(3) while the Collateral shall be so stored and kept, provide such security and maintenance services as shall be reasonably necessary to protect the same and to preserve and maintain it in good condition.

(vi) Declare the entire right, title and interest of such Grantor in and to any Titled Equipment, vested in Agent for the benefit of the Secured Parties, in which event such rights, title and interest shall immediately vest, in Agent for the benefit of the Secured Parties, and Agent shall be entitled to (i) exercise the power of attorney referred to in Section 4.07 above to execute, cause to be acknowledged and notarized and to record said absolute assignment with the applicable Governmental Authority and (ii) take and use or sell the Titled Equipment.

(b) Each Grantor acknowledges and agrees that compliance by the Agent, on behalf of the Secured Parties, with any applicable state or federal Requirements of Law in connection with a disposition of the Collateral will not be considered to adversely affect the commercial reasonableness of any sale of the Collateral.

(c) The Agent shall have the right in any public sale and, to the extent permitted by applicable Requirements of Law, in any private sale, to purchase for the benefit of the Agent and the Secured Parties, all or any part of the Collateral so sold, free of any right of equity redemption, which equity redemption each Grantor hereby expressly releases.

(d) Until the Agent is able to effect a sale, lease, transfer or other disposition of any particular Collateral under this Section 5.01, the Agent shall have the right to hold or use such Collateral, or any part thereof, to the extent that it deems appropriate for the purpose of preserving such Collateral or the value of such Collateral, or for any other purpose deemed reasonably appropriate by the Agent. At any time when an Event of Default exists, the Agent may, if it so elects, seek the appointment of a receiver or keeper to take possession of any Collateral and to enforce any of the Agent's remedies (for the benefit of the Agent and Secured Parties), with respect to such appointment without prior notice or hearing as to such appointment.

(e) Notwithstanding the foregoing, neither the Agent nor the Secured Parties shall be required to (i) make any demand upon, or pursue or exhaust any of their rights or remedies against, the Grantors, any other obligor, guarantor, pledgor or any other Person with respect to the payment of the Secured Obligations or to pursue or exhaust any of their rights or remedies with respect to any Collateral therefor or any direct or indirect guarantee thereof, (ii) marshal the Collateral or any guarantee of the Secured Obligations or to resort to the Collateral or any such guarantee in any particular order, or (iii) effect a public sale of any Collateral.

(f) Each Grantor recognizes that the Agent may be unable to effect a public sale of any or all the Pledged Collateral and may be compelled to resort to one or more private sales thereof. Each Grantor also acknowledges that any private sale may result in prices and other terms less favorable to the seller than if such sale were a public sale and, notwithstanding such circumstances, agrees that no such private sale shall be deemed to have been made in a commercially unreasonable manner solely by virtue of such sale being private. The Agent shall be under no obligation to delay a sale of any of the Pledged Collateral for the period of time necessary to permit any Grantor or the issuer of any Pledged Collateral to register such securities for public sale under the Securities Act of 1933, as amended, or under applicable state securities Requirements of Law, even if any Grantor and the issuer would agree to do so.

(g) Notwithstanding the foregoing, any rights and remedies provided in this Section 5.01 shall be subject to the Intercreditor Agreement.

Section 5.02. *Grantors' Obligations Upon Default*. Upon the request of the Agent at any time when an Event of Default exists, each Grantor will:

(a) at its own cost and expense (i) assemble and make available to the Agent, the Collateral and all books and records relating thereto at any place or places reasonably specified by the Agent, whether at such Grantor's premises or elsewhere, (ii) deliver all tangible evidence of its Accounts and Contract Rights (including, without limitation, all documents evidencing the Accounts and all Contracts) and such books and records to the Agent or to its representatives (copies of which evidence and books and records may be retained by such Grantor) and (iii) if the Agent so directs and in a form and in a manner reasonably satisfactory to the Agent, legend the Accounts and the Contracts, as well as books, records and documents (if any) of such Grantor evidencing or pertaining to such Accounts and Contracts with an appropriate reference to the fact that such Accounts and Contracts have been assigned to the Agent and that the Agent has a security interest therein; and

(b) permit the Agent and/or its representatives and/or agents, to enter, occupy and use any premises where all or any part of the Collateral, or the books and records relating thereto, or both, are located, to take possession of all or any part of the Collateral or the books and records relating thereto, or both, to remove all or any part of the Collateral or the books and records relating thereto, or both, and to conduct sales of the Collateral, without any obligation to pay any Grantor for such use and occupancy.

Section 5.03. *Intellectual Property Remedies*. (a) For the purpose of enabling the Agent to exercise the rights and remedies under this Article 5 at any time when an Event of Default exists and at such time as the Agent shall be lawfully entitled to exercise such rights and remedies, each Grantor hereby grants to the Agent a power of attorney to sign any document which may be required by the United States Patent and Trademark Office, the United States Copyright Office, domain name registrar or any other applicable Governmental Authority or registrar in order to effect an absolute assignment of all right, title and interest in any of the Intellectual Property Collateral and record the same. At any time when an Event of Default exists, the Agent may (i) declare the entire right, title and interest of such Grantor in and to each item of Intellectual Property Collateral to be vested in the Agent for the benefit of the Secured Parties, in which event such right, title and interest shall immediately vest in the Agent for the benefit of the Secured Parties, and the Agent shall be entitled to exercise the power of attorney referred to in this Section 5.03 to execute, cause to be acknowledged and notarized and record such absolute assignment with the applicable agency or registrar; (ii) sell any Grantor's Inventory directly to any Person, including without limitation Persons who have previously purchased any Grantor's Inventory from such Grantor and in connection with any such sale or other enforcement of the Agent's rights under this Security Agreement and subject to any restrictions contained in applicable third party licenses entered into by such Grantor, sell Inventory which bears any Trademark owned by or licensed to any Grantor and any Inventory that is covered by any Intellectual Property Collateral owned by or licensed to any Grantor, and the Agent may finish any work in process and affix any relevant Trademark owned by or licensed to such Grantor and sell such Inventory as provided herein; (iii) direct such Grantor to refrain, in which event such Grantor shall refrain, from using any Intellectual Property Collateral in any manner whatsoever, directly or indirectly; and (iv) assign or sell any Patent, Trademark, Copyright, Domain Name, and/or Trade Secret, as well as the goodwill of such Grantor's business symbolized by any such Trademark and the right to carry on the business and use the assets of such Grantor in connection with which any such Trademark or Domain Name has been used.

(b) Each Grantor hereby grants to the Agent an irrevocable, nonexclusive, royalty-free, worldwide license to its right to use, license or sublicense any Intellectual Property Collateral subject, in the case of Trademarks, to such rights of quality control which are reasonably necessary under applicable Requirements of Law to maintain the validity and enforceability of such Trademarks, now owned or hereafter acquired by such Grantor, wherever the same may be located, and including in such license access to all media in which any of the licensed items may be recorded or stored and (to the extent not prohibited by any applicable license) to all computer software and programs used for compilation or printout thereof. The use of the license granted to the Agent pursuant to the preceding sentence may be exercised, at the option of the Agent, only when an Event of Default exists; provided that, any license, sublicense or other transaction entered into by the Agent in accordance with this clause (b) shall be binding upon each Grantor notwithstanding any subsequent cure of the relevant Event of Default.

Section 5.04. *Application of Proceeds*. (a) Subject to the Intercreditor Agreement, the Agent shall apply the proceeds of any collection, sale, foreclosure or other realization of any Collateral, as well as any Collateral consisting of Cash, as set forth in Section 2.15(b) of the Term Loan Agreement.

(b) Except as otherwise provided herein or in any other Loan Document, the Agent shall have absolute discretion as to the time of application of any such proceeds, money or balance in accordance with this Security Agreement. Upon any sale of Collateral by the Agent (including pursuant to a power of sale granted by statute or under a judicial proceeding), a receipt by the Agent or of the officer making the sale of such proceeds, moneys or balances shall be a sufficient discharge to the purchaser or purchasers of the Collateral so sold and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to the Agent or such officer or be answerable in any way for the misapplication thereof. It is understood that the Grantors shall remain jointly and severally liable to the extent of any deficiency between the amount of the proceeds of the Collateral and the aggregate amount of the Secured Obligations.

ARTICLE 6
Account Verification; Attorney in Fact; Proxy

Section 6.01. *Account Verification.* The Agent may at any time and from time to time when an Event of Default exists, in the Agent's own name, in the name of a nominee of the Agent, or in the name of any Grantor, communicate (by mail, telephone, facsimile or otherwise) with the Account Debtors of such Grantor, parties to Contracts with such Grantor and obligors in respect of Instruments of such Grantor to verify with such Persons, to the Agent's reasonable satisfaction, the existence, amount, terms of, and any other matter relating to, Accounts, Contracts, Instruments, Chattel Paper, payment intangibles and/or other Receivables that constitute Collateral.

Section 6.02. *Authorization for the Agent to Take Certain Action*. (a) Each Grantor hereby irrevocably authorizes the Agent and appoints the Agent (and all officers, employees or agents designated by the Agent) as its true and lawful attorney in fact (i) at any time and from time to time, in its sole discretion (A) to execute (to the extent necessary under the Requirements of Law of the applicable jurisdiction) on behalf of such Grantor as debtor and to file financing statements necessary or desirable in the Agent's reasonable discretion to perfect and to maintain the perfection and priority of the Agent's security interest in the Collateral, (B) to file a carbon, photographic or other reproduction of this Security Agreement as a financing statement and to file any other financing statement or amendment of a financing statement with respect to the Collateral (which would not add new collateral or add a debtor, except as otherwise provided for herein or in any other Loan Document) in such offices as the Agent in its reasonable discretion deems necessary or desirable to perfect and to maintain the perfection and priority of the Agent's security interest in the Collateral, and (C) to contact and enter into one or more agreements with the issuers of uncertificated securities that constitute Pledged Collateral or with securities intermediaries holding Pledged Collateral as may be necessary or advisable to give the Agent Control over such Pledged Collateral in accordance with the terms hereof (subject to the terms of the Intercreditor Agreement); (ii) at any time when an Event of Default exists, in the sole discretion of the Agent (in the name of such Grantor or otherwise), (A) to endorse and collect any cash proceeds of the Collateral and to apply the proceeds of any Collateral received by the Agent to the Secured Obligations as provided herein or in the Term Loan Agreement or any other Loan Document, subject to the terms of the Intercreditor Agreement, (B) to demand payment or enforce payment of any Receivable in the name of the Agent or such Grantor and to endorse any check, draft and/or any other instrument for the payment of money relating to any such Receivable, (C) to sign such Grantor's name on any invoice or bill of lading relating to any Receivable, any draft against any Account Debtor of such Grantor, and/or any assignment and/or verification of any Receivable, (D) to exercise all of any Grantor's rights and remedies with respect to the collection of any Receivable and any other Collateral, (E) to settle, adjust, compromise, extend or renew any Receivable, (F) to settle, adjust or compromise any legal proceedings brought to collect any Receivable, (G) to prepare, file and sign such Grantor's name on a proof of claim in bankruptcy or similar document against any Account Debtor of such Grantor, (H) to prepare, file and sign such Grantor's name on any notice of Lien, assignment or satisfaction of Lien or similar document in connection with any Receivable, (I) to change the address for delivery of mail addressed to such Grantor to such address as the Agent may designate and to receive, open and dispose of all mail addressed to such Grantor (provided copies of such mail are provided to such Grantor), (J) to discharge past due taxes, assessments, charges, fees or Liens on the Collateral (except for Permitted Liens), (K) to make, settle and adjust claims in respect of Collateral under policies of insurance and endorse the name of such Grantor on any check, draft, instrument or other item of payment for the proceeds of such policies of insurance, (L) to make all determinations and decisions with respect thereto and (M) to obtain or maintain the policies of insurance of the types referred to in Section 5.05 of the Term Loan Agreement or to pay any premium in whole or in part relating thereto; and (iii) to do all other acts and things or institute any proceedings which the Agent may reasonably deem to be necessary or advisable (pursuant to this Security Agreement and the other Loan Documents and in accordance with applicable law) to carry out the terms of this Security Agreement and to protect the interests of the Secured Parties; and, when and to the extent required pursuant to Section 9.03(a) of the Term Loan Agreement, such Grantor agrees to reimburse the Agent for any payment made in connection with this paragraph or any expense (including attorneys' fees, court costs and expenses) and other charges related thereto incurred by the Agent in connection with any of the foregoing (it being understood that any such sums shall constitute additional Secured Obligations); provided that, this authorization shall not relieve such Grantor of any of its obligations under this Security Agreement or under the Term Loan Agreement.

(b) All acts of such attorney or designee are hereby ratified and approved by each Grantor. The powers conferred on the Agent, for the benefit of the Agent and Secured Parties, under this Section 6.02 are solely to protect the Agent's interests in the Collateral and shall not impose any duty upon the Agent or any Secured Party to exercise any such powers.

Section 6.03. *PROXY*. EACH GRANTOR HEREBY IRREVOCABLY (UNTIL THE TERMINATION DATE) CONSTITUTES AND APPOINTS THE AGENT AS ITS PROXY AND ATTORNEY-IN-FACT (AS SET FORTH IN SECTION 6.02 ABOVE) WITH RESPECT TO THE PLEDGED COLLATERAL, INCLUDING THE RIGHT TO VOTE SUCH PLEDGED COLLATERAL, WITH FULL POWER OF SUBSTITUTION TO DO SO. IN ADDITION TO THE RIGHT TO VOTE ANY SUCH PLEDGED COLLATERAL, THE APPOINTMENT OF THE AGENT AS PROXY AND ATTORNEY-IN-FACT SHALL INCLUDE THE RIGHT TO EXERCISE ALL OTHER RIGHTS, POWERS, PRIVILEGES AND REMEDIES TO WHICH A HOLDER OF SUCH PLEDGED COLLATERAL WOULD BE ENTITLED (INCLUDING GIVING OR WITHHOLDING WRITTEN CONSENTS OF SHAREHOLDERS, CALLING SPECIAL MEETINGS OF SHAREHOLDERS AND VOTING AT SUCH MEETINGS). SUCH PROXY SHALL BE EFFECTIVE, AUTOMATICALLY AND WITHOUT THE NECESSITY OF ANY ACTION (INCLUDING ANY TRANSFER OF ANY SUCH PLEDGED COLLATERAL ON THE RECORD BOOKS OF THE ISSUER THEREOF) BY ANY PERSON (INCLUDING THE ISSUER OF SUCH PLEDGED COLLATERAL OR ANY OFFICER OR AGENT THEREOF), IN EACH CASE ONLY WHEN AN EVENT OF DEFAULT EXISTS AND UPON THREE BUSINESS DAYS' PRIOR WRITTEN NOTICE TO THE BORROWER.

Section 6.04. *NATURE OF APPOINTMENT; LIMITATION OF DUTY*. THE APPOINTMENT OF THE AGENT AS PROXY AND ATTORNEY-IN-FACT IN THIS ARTICLE 6 IS COUPLED WITH AN INTEREST AND SHALL BE IRREVOCABLE UNTIL THE TERMINATION DATE. NOTWITHSTANDING ANYTHING CONTAINED HEREIN, NEITHER THE AGENT, NOR ANY SECURED PARTY, NOR ANY OF THEIR RESPECTIVE AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES SHALL HAVE ANY DUTY TO EXERCISE ANY RIGHT OR POWER GRANTED HEREUNDER OR OTHERWISE OR TO PRESERVE THE SAME AND SHALL NOT BE LIABLE FOR ANY FAILURE TO DO SO OR FOR ANY DELAY IN DOING SO, EXCEPT TO THE EXTENT SUCH DAMAGES ARE ATTRIBUTABLE TO THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF SUCH PERSON AS FINALLY DETERMINED BY A COURT OF COMPETENT JURISDICTION IN A FINAL AND NON-APPEALABLE DECISION SUBJECT TO SECTION 7.21 HEREOF; PROVIDED, THAT THE FOREGOING EXCEPTION SHALL NOT BE CONSTRUED TO OBLIGATE THE AGENT TO TAKE OR REFRAIN FROM TAKING ANY ACTION WITH RESPECT TO THE COLLATERAL.

ARTICLE 7
General Provisions

Section 7.01. *Waivers*. To the maximum extent permitted by applicable Requirements of Law, each Grantor hereby waives notice of the time and place of any judicial hearing in connection with the Agent's taking possession of the Collateral or of any public sale or the time after which any private sale or other disposition of all or any part of the Collateral may be made, including without limitation, any and all prior notice and hearing for any prejudgment remedy or remedies. To the extent such notice may not be waived under applicable Requirements of Law, any notice made shall be deemed reasonable if sent to any Grantor, addressed as set forth in Article 8, at least 10 days prior to (a) the date of any such public sale or (b) the time after which any such private disposition may be made. To the maximum extent permitted by applicable Requirements of Law, each Grantor waives all claims, damages, and demands against the Agent or any Secured Party arising out of the repossession, retention or sale of the Collateral, except those arising out of the gross negligence or willful misconduct of the Agent or any Secured Party as determined by a court of competent jurisdiction in a final and non-appealable judgment. To the extent it may lawfully do so, each Grantor absolutely and irrevocably waives and relinquishes the benefit and advantage of, and covenants not to assert against the Agent or any Secured Party, any valuation, stay (other than an automatic stay under any applicable Debtor Relief Law), appraisal, extension, moratorium, redemption or similar law and any and all rights or defenses it may have as a surety now or hereafter existing which, but for this provision, might be applicable to the sale of any Collateral made under the judgment, order or decree of any court, or privately under the power of sale conferred by this Security Agreement, or otherwise. Except as otherwise specifically provided herein, each Grantor hereby waives presentment, demand, protest, any notice (to the maximum extent permitted by applicable Requirements of Law) of any kind or all other requirements as to the time, place and terms of sale in connection with this Security Agreement or any Collateral.

Section 7.02. *Limitation on Agent's Duty with Respect to the Collateral*. The Agent shall not have any obligation to clean or otherwise prepare the Collateral for sale. The Agent shall use reasonable care with respect to the Collateral in its possession; provided that the Agent shall be deemed to have exercised reasonable care in the custody and preservation of any Collateral in its possession if such Collateral is accorded treatment substantially equal to which it accords its own property. Neither the Agent nor any Secured Party shall have any other duty as to any Collateral in its possession or control or in the possession or control of any agent or nominee of the Agent or any Secured Party, or any income thereon or as to the preservation of rights against prior parties or any other rights pertaining thereto. To the extent that applicable Requirements of Law impose duties on the Agent to exercise remedies in a commercially reasonable manner, each Grantor acknowledges and agrees that it would be commercially reasonable for the Agent (a) to elect not to incur expenses to prepare Collateral for disposition or otherwise to transform raw material or work in process into finished goods or other finished products for disposition, (b) to elect not to obtain third party consents for access to Collateral to be disposed of, or to obtain or, if not required by other law, to fail to obtain governmental or third party consents for the collection or disposition of Collateral to be collected or disposed of, (c) to elect not to exercise collection remedies against Account Debtors or other Persons obligated on Collateral or to remove Liens on or any adverse claims against Collateral, (d) to exercise collection remedies against Account Debtors and other Persons obligated on Collateral directly or through the use of collection agencies and other collection specialists, (e) to advertise dispositions of Collateral through publications or media of general circulation, whether or not the Collateral is of a specialized nature, (f) to contact other Persons, whether or not in the same business as any Grantor, for expressions of interest in acquiring all or any portion of such Collateral, (g) to hire one or more professional auctioneers to assist in the disposition of Collateral, whether or not the Collateral is of a specialized nature, (h) to dispose of Collateral by utilizing internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capacity of doing so, or that match buyers and sellers of assets, (i) to dispose of assets in wholesale rather than retail markets, (j) to disclaim disposition warranties, such as title, possession or quiet enjoyment, (k) to purchase insurance or credit enhancements to insure the Agent against risks of loss in connection with any collection or disposition of Collateral or to provide to the Agent a guaranteed return from the collection or disposition of Collateral or (l) to the extent deemed appropriate by the Agent, to obtain the services of other brokers, investment bankers, consultants and other professionals to assist the Agent in the collection or disposition of any of the Collateral. Each Grantor acknowledges that the purpose of this Section 7.02 is to provide non-exhaustive indications of what actions or omissions by the Agent would be commercially reasonable in the Agent's exercise of remedies with respect to the Collateral and that other actions or omissions by the Agent shall not be deemed commercially unreasonable solely on account of not being indicated in this Section 7.02. Without limitation upon the foregoing, nothing contained in this Section 7.02 shall be construed to grant any rights to any Grantor or to impose any duties on the Agent that would not have been granted or imposed by this Security Agreement or by applicable law in the absence of this Section 7.02.

Section 7.03. *Compromises and Collection of Collateral.* Each Grantor and the Agent recognize that setoffs, counterclaims, defenses and other claims may be asserted by obligors with respect to certain of the Receivables, that certain of the Receivables may be or become uncollectible in whole or in part and that the expense and probability of success in litigating a disputed Receivable may exceed the amount that reasonably may be expected to be recovered with respect to any Receivable. In view of the foregoing, each Grantor agrees that the Agent may at any time and from time to time, if an Event of Default exists, compromise with the obligor on any Receivable, accept in full payment of any Receivable such amount as the Agent in its sole discretion shall determine or abandon any Receivable, and any such action by the Agent shall be commercially reasonable so long as the Agent acts in good faith based on information known to it at the time it takes any such action.

Section 7.04. *Agent Performance of Debtor Obligations*. Without having any obligation to do so, the Agent may, at any time when an Event of Default exists, perform or pay any obligation which any Grantor has agreed to perform or pay under this Security Agreement and which obligation is due and unpaid and such Grantor shall reimburse the Agent for any amounts paid by the Agent pursuant to this Section 7.04 as a Secured Obligation payable in accordance with Section 9.03(a) of the Term Loan Agreement.

Section 7.05. *No Waiver; Amendments; Cumulative Remedies*. No delay or omission of the Agent (subject to the provisions of Article 8 of the Term Loan Agreement) to exercise any right or remedy granted under this Security Agreement shall impair such right or remedy or be construed to be a waiver of any Default or an acquiescence therein, and no single or partial exercise of any such right or remedy shall preclude any other or further exercise thereof or the exercise of any other right or remedy. No waiver, amendment or other variation of the terms, conditions or provisions of this Security Agreement whatsoever shall be valid unless in writing signed by the Grantors and the Agent with the concurrence or at the direction of the Lenders to the extent required under Section 9.02 of the Term Loan Agreement and then only to the extent in such writing specifically set forth. All rights and remedies contained in this Security Agreement or afforded by law shall be cumulative and all shall be available to the Agent and the Secured Parties until the Termination Date.

Section 7.06. *Limitation by Law; Severability of Provisions.* All rights, remedies and powers provided in this Security Agreement may be exercised only to the extent that the exercise thereof does not violate any applicable Requirements of Law, and all of the provisions of this Security Agreement are intended to be subject to all applicable mandatory Requirements of Law that may be controlling and to be limited to the extent necessary so that such provisions do not render this Security Agreement invalid, unenforceable or not entitled to be recorded or registered, in whole or in part. To the extent permitted by applicable Requirements of Law, any provision of this Security Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions of this Security Agreement; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

Section 7.07. *Security Interest Absolute*. All rights of the Agent hereunder, the security interests granted hereunder and all obligations of each Grantor hereunder shall be absolute and unconditional irrespective of (a) any lack of validity or enforceability of the Term Loan Agreement, any other Loan Document, any agreement with respect to any of the Secured Obligations or any other agreement or instrument relating to any of the foregoing, (b) any change in the time, manner or place of payment of, or in any other term of, all or any of the Secured Obligations, or any other amendment or waiver of or any consent to any departure from the Term Loan Agreement, any other Loan Document or any other agreement or instrument relating to the foregoing, (c) any exchange, release or nonperfection of any Lien on any Collateral, or any release or amendment or waiver of or consent under or departure from any guaranty, securing or guaranteeing all or any of the Secured Obligations, (d) any bankruptcy, insolvency, reorganization, arrangement, readjustment, composition, liquidation or the like of any Grantor, (e) any exercise or non-exercise, or any waiver of, any right, remedy, power or privilege under or in respect of this Security Agreement or any other Loan Document or (f) any other circumstance that might otherwise constitute a defense available to, or a discharge of, any Grantor in respect of the Secured Obligations or this Security Agreement (other than a termination of any Lien contemplated by Section 7.12 or the occurrence of the Termination Date).

Section 7.08. *Benefit of Security Agreement.* The terms and provisions of this Security Agreement shall be binding upon and inure to the benefit of each Grantor, the Agent and the Secured Parties and their respective successors and permitted assigns (including all Persons who become bound as a debtor to this Security Agreement). No sale of participations, assignments, transfers, or other dispositions of any agreement governing the Secured Obligations or any portion thereof or interest therein shall in any manner impair the Lien granted to the Agent hereunder for the benefit of the Agent and the Secured Parties.

Section 7.09. *Survival of Representations.* All representations and warranties of each Grantor contained in this Security Agreement shall survive the execution and delivery of this Security Agreement until the Termination Date.

Section 7.10. *Additional Subsidiaries*. Upon the execution and delivery by any Restricted Subsidiary of an instrument in the form of Exhibit A in accordance with Section 5.12(a) of the Term Loan Agreement, such Restricted Subsidiary shall become a Subsidiary Party hereunder with the same force and effect as if such Restricted Subsidiary was originally named as a Subsidiary Party herein. The execution and delivery of any such instrument shall not require the consent of any other Grantor or any other Person. The rights and obligations of each Grantor hereunder shall remain in full force and effect notwithstanding the addition of any new Grantor as a party to this Security Agreement.

Section 7.11. *Headings*. The titles of and section headings in this Security Agreement are for convenience of reference only, and shall not govern the interpretation of any of the terms and provisions of this Security Agreement.

Section 7.12. *Termination or Release*. (a) This Security Agreement shall continue in effect until the Termination Date, and the Liens granted hereunder shall automatically be released in the circumstances described in Article 8 of the Term Loan Agreement.

(b) In connection with any termination or release pursuant to paragraph (a) above, the Agent shall promptly execute (if applicable) and deliver to any Grantor, at such Grantor's expense, all UCC termination statements and similar documents that such Grantor shall reasonably request to evidence and/or effectuate such termination or release. Any execution and delivery of documents pursuant to this Section 7.12 shall be without recourse to or representation or warranty by the Agent or any Secured Party. The Borrower shall reimburse the Agent for all costs and expenses, including any fees and expenses of counsel, incurred by it in connection with any action contemplated by this Section 7.12 pursuant to and to the extent required by Section 9.03(a) of the Term Loan Agreement.

(c) At any time that a Grantor desires that the Agent take any action to acknowledge or give effect to any release of Collateral pursuant to Section 7.12(a), such Grantor or the Borrower shall deliver to the Agent a certificate signed by a Responsible Officer of such Grantor stating that the release of the respective Collateral is permitted pursuant to Section 7.12(a) and the terms of the Term Loan Agreement, provided that such requirement to deliver a certificate shall be satisfied with the delivery of any certificate signed by a Responsible Officer required under Sections 5.01 and/or 6.07 of the Term Loan Agreement, as applicable, so long as such certificate contains an acknowledgment that such release is so permitted. At any time that any Grantor desires that a subsidiary of such Grantor be released hereunder, such Grantor or the Borrower shall deliver to the Agent a certificate signed by a Responsible Officer of the such Grantor stating that the release of the relevant subsidiary (and its Collateral) is permitted pursuant to Section 7.12(a) and the terms of the Term Loan Agreement; provided, that such requirement to deliver a certificate shall be satisfied with the delivery of any certificate signed by a Responsible Officer required under Sections 5.01 and/or 6.07 of the Term Loan Agreement, as applicable, so long as such certificate contains an acknowledgment that such release is so permitted.

(d) The Agent shall have no liability whatsoever to any other Secured Party as the result of any release of Collateral or any Grantor by it in accordance with (or which the Agent in good faith believes to be in accordance with) the terms of this Section 7.12.

Section 7.13. *Entire Agreement*. This Security Agreement, together with the other Loan Documents and the Intercreditor Agreement, embodies the entire agreement and understanding between each Grantor and the Agent relating to the Collateral and supersedes all prior agreements and understandings between any Grantor and the Agent relating to the Collateral.

Section 7.14. *CHOICE OF LAW*. THIS SECURITY AGREEMENT AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS SECURITY AGREEMENT, WHETHER IN TORT, CONTRACT (AT LAW OR IN EQUITY) OR OTHERWISE, SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

Section 7.15. *CONSENT TO JURISDICTION; CONSENT TO SERVICE OF PROCESS.*

(a) EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF ANY U.S. FEDERAL OR NEW YORK STATE COURT SITTING IN THE BOROUGH OF MANHATTAN, IN THE CITY OF NEW YORK (OR ANY APPELLATE COURT THEREFROM) OVER ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS SECURITY AGREEMENT AND AGREES THAT ALL CLAIMS, CONTROVERSIES OR DISPUTES IN RESPECT OF ANY SUCH ACTION OR PROCEEDING SHALL (EXCEPT AS PERMITTED BELOW) BE HEARD AND DETERMINED IN SUCH NEW YORK STATE OR, TO THE EXTENT PERMITTED BY APPLICABLE REQUIREMENTS OF LAW, FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT SERVICE OF ANY PROCESS, SUMMONS, NOTICE OR DOCUMENTS BY REGISTERED MAIL ADDRESSED TO SUCH PERSON SHALL BE EFFECTIVE SERVICE OF PROCESS AGAINST SUCH PERSON FOR ANY SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY APPLICABLE REQUIREMENTS OF LAW. EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT IT MAY LEGALLY AND EFFECTIVELY DO SO, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS SECURITY AGREEMENT IN ANY SUCH COURT. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE REQUIREMENTS OF LAW, ANY CLAIM OR DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION, SUIT OR PROCEEDING IN ANY SUCH COURT. EACH PARTY HERETO AGREES THAT THE AGENT AND LENDERS RETAIN THE RIGHT TO BRING PROCEEDINGS AGAINST ANY GRANTOR IN THE COURTS OF ANY OTHER JURISDICTION SOLELY IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS IN RESPECT OF THE COLLATERAL UNDER THIS SECURITY AGREEMENT.

(b) TO THE EXTENT PERMITTED BY APPLICABLE REQUIREMENTS OF LAW, EACH PARTY TO THIS SECURITY AGREEMENT HEREBY IRREVOCABLY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS UPON IT AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL (OR ANY SUBSTANTIALLY SIMILAR FORM OF MAIL) DIRECTED TO IT AT ITS ADDRESS FOR NOTICES AS PROVIDED FOR IN SECTION 9.01 OF THE TERM LOAN AGREEMENT. EACH PARTY TO THIS SECURITY AGREEMENT HEREBY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER THAT SERVICE OF PROCESS WAS INVALID AND INEFFECTIVE. NOTHING IN THIS SECURITY AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY TO THIS SECURITY AGREEMENT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE REQUIREMENTS OF LAW.

Section 7.16. *WAIVER OF JURY TRIAL*. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE REQUIREMENTS OF LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY SUIT, ACTION, LEGAL PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS SECURITY AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY 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 SECURITY AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 7.17. *Indemnity*. Each Grantor hereby agrees to indemnify the Indemnitees, as, and to the extent, set forth in Section 9.03 of the Term Loan Agreement.

Section 7.18. *Counterparts*. This Security Agreement may be executed in counterparts (and by different parties hereto on 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 Security Agreement by facsimile or by email as a ".pdf" or ".tif" attachment or other electronic transmission shall be effective as delivery of a manually executed counterpart of this Security Agreement.

Section 7.19. *INTERCREDITOR AGREEMENT GOVERNS.* NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THE LIENS AND SECURITY INTERESTS GRANTED TO THE "TERM LOAN AGENT" (AS DEFINED IN THE INTERCREDITOR AGREEMENT) PURSUANT TO THIS AGREEMENT IN ANY COLLATERAL AND THE EXERCISE OF ANY RIGHT OR REMEDY BY THE "TERM LOAN AGENT" (AS DEFINED IN THE INTERCREDITOR AGREEMENT) WITH RESPECT TO ANY COLLATERAL HEREUNDER ARE SUBJECT TO THE 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.

Section 7.20. *Delivery of Collateral.* Notwithstanding anything to the contrary contained above in this Article 7, or elsewhere in this Security Agreement or any other Loan Document, to the extent the provisions of this Security Agreement (or any other Collateral Documents) require the delivery of, or control over, ABL Facility Priority Collateral to be granted to the Agent at any time prior to the discharge of obligations under the ABL Facility, then delivery of such ABL Facility Priority Collateral (or control with respect thereto) shall instead be made to the ABL Collateral Agent, to be held in accordance with the "Loan Documents" (as defined in the ABL Credit Agreement) and the Intercreditor Agreement, each applicable Grantor's obligations hereunder or in any other Loan Document (including the representations and warranties made by it hereunder and in the other Loan Documents) with respect to such delivery shall be deemed satisfied by the delivery to the ABL Collateral Agent, acting as a gratuitous bailee of the Agent. Furthermore, at all times prior to the discharge of the Obligations under the ABL Facility, the Agent is authorized by the parties hereto to effect transfers of such Collateral at any time in its possession (and any "control" or similar agreements with respect to such Collateral) to the ABL Collateral Agent.

Section 7.21. *Waiver of Consequential Damages, Etc*. To the extent permitted by applicable law, none of the Grantors or Secured Parties shall assert, and each hereby waives, any claim against each other or any Related Party thereof, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Security Agreement or any agreement or instrument contemplated hereby, except, in the case of any claim by any Indemnitee against any of the Grantors, to the extent such damages would otherwise be subject to indemnification pursuant to the terms of Section 7.17.

Section 7.22. *Mortgages*. In the case of a conflict between this Security Agreement and any Mortgage with respect to any Material Real Estate Asset that is also subject to a valid and enforceable Lien under the terms of such Mortgage (including Fixtures), the terms of such Mortgage shall govern.

Section 7.23. *Successors and Assigns.* Whenever in this Security Agreement any party hereto is referred to, such reference shall be deemed to include the successors and permitted assigns of such party; and all covenants, promises and agreements by or on behalf of any Grantor or the Agent in this Security Agreement shall bind and inure to the benefit of their respective successors and permitted assigns. Except in a transaction expressly permitted under the Term Loan Agreement, no Grantor may assign any of its rights or obligations hereunder without the written consent of the Agent.

Section 7.24. *Survival of Agreement.* Without limiting any provision of the Term Loan Agreement or Section 7.17 hereof, all covenants, agreements, indemnities, representations and warranties made by the Grantors in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Security Agreement or any other Loan Document shall be considered to have been relied upon by the Lenders and shall survive the execution and delivery of the Loan Documents and the making of any Loans, regardless of any investigation made by any such Lender or on its behalf and notwithstanding that the Agent or any Lender may have had notice or knowledge of any Default or Event of Default or incorrect representation or warranty at the time any credit is extended under the Term Loan Agreement, and shall continue in full force and effect until the Termination Date, or with respect to any individual Grantor until such Grantor is otherwise released from its obligations under this Security Agreement in accordance with the terms hereof.

Section 7.25. *Reinstatement*. This Security Agreement shall remain in full force and effect and continue to be effective should any petition be filed by or against any Grantor for liquidation or reorganization, should any Grantor become insolvent or make an assignment for the benefit of any creditor or creditors or should a receiver or trustee be appointed for all or any significant part of any Grantor's assets, and shall continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Secured Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount , or must otherwise be restored or returned by any obligee of the Secured Obligations, whether as a "voidable preference," "fraudulent conveyance," or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Secured Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

ARTICLE 8
Notices

Section 8.01. *Sending Notices*. Any notice required or permitted to be given under this Security Agreement shall be delivered in accordance with Section 9.01 of the Term Loan Agreement (it being understood and agreed that references in such Section to "herein", "hereunder" and other similar terms shall be deemed to be references to this Security Agreement).

ARTICLE 9
The Agent

Credit Suisse has been appointed Agent for the Lenders hereunder pursuant to Article 8 of the Term Loan Agreement. It is expressly understood and agreed by the parties to this Security Agreement that any authority conferred upon the Agent hereunder is subject to the terms of the delegation of authority made by the Lenders to the Agent pursuant to the Term Loan Agreement, and that the Agent has agreed to act (and any successor Agent shall act) as such hereunder only on the express conditions contained in such Article 8. Any successor Agent appointed pursuant to Article 8 of the Term Loan Agreement shall be entitled to all the rights, interests and benefits of the Agent hereunder.

By accepting the benefits of this Security Agreement and any other Loan Document, each Secured Party expressly acknowledges and agrees that this Security Agreement and each other Loan Document may be enforced only by the action of the Agent, and that such Secured Party shall not have any right individually to seek to enforce or to enforce this Security Agreement or to realize upon the security to be granted hereby, it being understood and agreed that such rights and remedies may be exercised by the Agent for the benefit of the Secured Parties upon the terms of this Security Agreement and the other Loan Documents.

[Signature Pages Follow]

IN WITNESS WHEREOF, each Grantor and the Agent have executed this Security Agreement as of the date first above written.

CONCRETE PUMPING HOLDINGS ACQUISITION CORP.

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer

CONCRETE PUMPING INTERMEDIATE ACQUISITION CORP.

By: /s/ Tariq Osman
Name: Tariq Osman
Title: President

INDUSTREA ACQUISITION CORP.

By: /s/ Tariq Osman
Name: Tariq Osman
Title: Executive Vice President

CONCRETE PUMPING MERGER SUB INC.

By: /s/ Tariq Osman
Name: Tariq Osman
Title: President

After giving effect to the Acquisition and the Merger:

CONCRETE PUMPING HOLDINGS, INC.

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer, Secretary and Treasurer

SUBSIDIARY PARTIES:

CONCRETE PUMPING INTERMEDIATE HOLDINGS, LLC

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer, Secretary and Treasurer

CONCRETE PUMPING PROPERTY HOLDINGS, LLC

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer, Secretary and Treasurer

BRUNDAGE-BONE CONCRETE PUMPING, INC.

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer, Secretary and Treasurer

ECO-PAN, INC.

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer, Secretary and Treasurer

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH,
as the Agent

By: /s/ Vipul Dhadda
Name: Vipul Dhadda
Title: Authorized Signatory

By: /s/Brady Bingham
Name: Brady Bingham
Title: Authorized Signatory

EXHIBIT A

[FORM OF] PLEDGE AND SECURITY AGREEMENT JOINDER

A. SUPPLEMENT NO. [●] dated as of [●] (this "Supplement"), to the Pledge and Security Agreement dated as of December 6, 2018 (as may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Security Agreement"), by and among Concrete Pumping Holdings Acquisition Corp., a Delaware corporation ("Holdings"), Concrete Pumping Intermediate Acquisition Corp., a Delaware corporation ("Intermediate Holdings"), Industrea Acquisition Corp., a Delaware corporation ("Buyer"), Concrete Pumping Merger Sub Inc., a Delaware corporation, which will be merged with and into Concrete Pumping Holdings, Inc. (to be renamed Brundage-Bone Concrete Pumping Holdings Inc.), a Delaware corporation (the "Borrower"), the Subsidiary Parties from time to time party thereto (the foregoing, collectively, the "Grantors") and Credit Suisse AG, Cayman Islands Branch, in its capacity as administrative agent and collateral agent for the Secured Parties (in such capacities, the "Agent").

B . Reference is made to the Term Loan Agreement dated as of December 6, 2018, (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Term Loan Agreement "), by and among, *inter alios*, Holdings, the Borrower, the lenders from time to time party thereto and the Agent.

C . Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Term Loan Agreement or the Security Agreement, as applicable.

D. The Grantors have entered into the Security Agreement in order to induce the Lenders to make Loans. Section 7.10 of the Security Agreement and Section 5.12 of the Term Loan Agreement provide that additional Domestic Subsidiaries of the Borrower may become Subsidiary Parties under the Security Agreement by executing and delivering an instrument in the form of this Supplement. [The] [Each] undersigned Restricted Subsidiary (the "New Subsidiary") is executing this Supplement in accordance with the requirements of the Term Loan Agreement to become a Subsidiary Party under the Security Agreement in order to induce the Lenders to make additional Loans and as consideration for Loans previously made and to secure the Secured Obligations, including [its] [their] obligations under the Loan Guaranty, each Hedge Agreement the obligations under which constitute Secured Hedging Obligations and agreements relating to Banking Services the obligations under which constitute Banking Services Obligations.

Accordingly, the Agent and [the] [each] New Subsidiary agree as follows:

SECTION 1. In accordance with Section 7.10 of the Security Agreement, [the] [each] New Subsidiary by its signature below becomes a Subsidiary Party and a Grantor under the Security Agreement with the same force and effect as if originally named therein as a Subsidiary Party, and [the] [each] New Subsidiary hereby (a) agrees to all the terms and provisions of the Security Agreement applicable to it as a Subsidiary Party and Grantor thereunder and (b) makes the representations and warranties applicable to it as a Grantor under the Security Agreement[, subject to Schedule A hereto,] on and as of the date hereof; it being understood and agreed that any representation or warranty that expressly relates to an earlier date shall be deemed to refer to the date hereof. In furtherance of the foregoing, [the] [each] New Subsidiary, as security for the payment and performance in full of the Secured Obligations, does hereby create and grant to the Agent, its successors and permitted assigns, for the benefit of the Secured Parties, their successors and permitted assigns, a security interest in and Lien on all of [the] [each] New Subsidiary's right, title and interest in and to the Collateral of [the] [each] New Subsidiary. Each reference to a "Grantor" and "Subsidiary Party" in the Security Agreement shall be deemed to include [the] [each] New Subsidiary. The Security Agreement is hereby incorporated herein by reference.

SECTION 2. [The] [Each] New Subsidiary represents and warrants to the Agent and the other Secured Parties that (i) it has the power and authority to enter into this Supplement and (ii) this Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, subject to the Legal Reservations.

SECTION 3. This Supplement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Supplement shall become effective when the Agent shall have received a counterpart of this Supplement that bears the signature of [the] [each] New Subsidiary and the Agent has executed a counterpart hereof. Delivery of an executed signature page to this Supplement by facsimile transmission or by email as a ".pdf" or ".tif" attachment shall be as effective as delivery of a manually signed counterpart of this Supplement.

SECTION 4. Attached hereto is a duly prepared, completed and executed Perfection Certificate with respect to [the] [each] New Subsidiary, and [the] [each] New Subsidiary hereby represents and warrants that the information set forth therein is correct and complete in all material respects as of the date hereof.

SECTION 5. Except as expressly supplemented hereby, the Security Agreement shall remain in full force and effect.

SECTION 6. **THIS SUPPLEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.**

SECTION 7. In case any one or more of the provisions contained in this Supplement is invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and in the Security Agreement shall not in any way be affected or impaired thereby (it being understood that the invalidity of a particular provision in a particular jurisdiction shall not in and of itself affect the validity of such provision in any other jurisdiction). The Borrower and the Agent shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

SECTION 8. All communications and notices hereunder shall be in writing and given as provided in Section 8.01 of the Security Agreement.

SECTION 9. [The] [Each] New Subsidiary agrees to reimburse the Agent for its expenses in connection with this Supplement, including the fees, other charges and disbursements of counsel in accordance with Section 9.03(a) of the Term Loan Agreement.

SECTION 10. This Supplement shall constitute a Loan Document, under and as defined in, the Term Loan Agreement.

[Signature pages follow]

IN WITNESS WHEREOF, [each] [the] New Subsidiary has duly executed this Supplement to the Security Agreement as of the day and year first above written.

[NAME OF NEW SUBSIDIARY]

By: _____
Name:
Title:

[SCHEDULE A
CERTAIN EXCEPTIONS]

EXHIBIT B TO THE SECURITY AGREEMENT

FORM OF INTELLECTUAL PROPERTY SECURITY AGREEMENT

This INTELLECTUAL PROPERTY SECURITY AGREEMENT is entered into as of [__], 2018, (this "Agreement"), by [___], a [Delaware corporation] (the "Grantor"), in favor of Credit Suisse AG, Cayman Islands Branch ("Credit Suisse"), as collateral agent (in such capacity, the "Collateral Agent") for the Secured Parties.

Reference is made to that certain Pledge and Security Agreement, dated as of December 6, 2018 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time and in effect on the date hereof, the "Security Agreement"), among the Loan Parties party thereto and the Collateral Agent. The Lenders (as defined in the Term Loan Agreement (as defined below)) have extended credit to the Borrower (as defined in Term Loan Agreement (as defined below)) subject to the terms and conditions set forth in that certain Term Loan Agreement, dated as of December 6, 2018 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time and in effect on the date hereof, the "Term Loan Agreement"), by and among, *inter alios*, Concrete Pumping Holdings Acquisition Corp., a Delaware corporation, as Holdings, Concrete Pumping Intermediate Acquisition Corp., a Delaware corporation, as Intermediate Holdings, Industrea Acquisition Corp., a Delaware corporation, as Buyer, Concrete Pumping Merger Sub, Inc., a Delaware corporation, which will be merged with and into Concrete Pumping Holdings, Inc. (to be renamed Brundage-Bone Concrete Pumping Holdings Inc.), a Delaware corporation, as the Borrower, the Lenders from time to time party thereto and Credit Suisse, in its capacities as administrative agent and collateral agent for the Lenders. The parties hereto agree as follows:

SECTION 1. ***Terms***. Capitalized terms used in this Agreement and not otherwise defined herein have the meanings specified in the Security Agreement.

SECTION 2. ***Grant of Security Interest***. As security for the prompt and complete payment or performance, as the case may be, in full of the Secured Obligations, the Grantor, pursuant to the Security Agreement, did and hereby does pledge, collaterally assign, mortgage, transfer and grant to the Collateral Agent, its successors and permitted assigns, on behalf of and for the ratable benefit of the Secured Parties, a continuing security interest in all of its right, title and interest in, to or under all of the following assets, whether now owned or at any time hereafter acquired by or arising in favor of the Grantor and regardless of where located (collectively, the "**IP Collateral**"):

A. all Trademarks, including the Trademark registrations and applications for registration with the United States Patent and Trademark Office listed on Schedule I hereto;

B. all Patents, including the issued Patents and pending Patent applications with the United States Patent and Trademark Office listed on Schedule II hereto

C. all Copyrights, including the Copyright registrations and applications for registration with the United States Copyright Office and all Exclusive Copyright Licenses, in each case, listed on Schedule III hereto; and

D. all proceeds and goodwill associated with any of the foregoing;

in each case to the extent the foregoing items constitute Collateral. For avoidance of doubt, the security interest created hereby shall not extend to, and term "Collateral" shall not include any Excluded Assets (as defined by the Term Loan Agreement) including, any intent-to-use (or similar) Trademark application prior to the filing and acceptance of a "Statement of Use," "Amendment to Allege Use" or similar filing with respect thereto, to the extent, if any, that, and solely during the period, if any, in which the grant of a security interest therein may impair the validity or enforceability of such intent-to-use Trademark application under applicable law.

SECTION 3. ***Security Agreement***. The security interests granted to the Collateral Agent herein are granted in furtherance, and not in limitation of, the security interests granted to the Collateral Agent pursuant to the Security Agreement. The Grantor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the IP Collateral are more fully set forth in the Security Agreement, the terms and provisions of which are hereby incorporated herein by reference as if fully set forth herein. In the event of any conflict between the terms of this Agreement and the Security Agreement, the terms of the Security Agreement shall govern.

SECTION 4. ***Counterparts.*** This Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which when taken together shall constitute but one contract. Delivery of an executed counterpart to this Agreement by facsimile or other electronic transmission shall be as effective as delivery of a manually signed original.

SECTION 5. ***Governing Law***. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

[PARTY NAME]

By: _____
Name:
Title:

[Signature Page to Intellectual Property Security Agreement (Term Loan)]

SCHEDULE I

REGISTERED TRADEMARKS

TRADEMARK APPLICATIONS

SCHEDULE II

ISSUED PATENTS

PATENT APPLICATIONS

SCHEDULE III

REGISTERED COPYRIGHTS

COPYRIGHT APPLICATIONS

EXCLUSIVE COPYRIGHT LICENSES

Exhibit 10.34

Execution Version

LOAN GUARANTY

THIS LOAN GUARANTY (as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, this "Loan Guaranty") is entered into as of December 6, 2018 by and among Concrete Pumping Holdings Acquisition Corp. (to be renamed Concrete Pumping Holdings, Inc. upon the Merger (as defined in the Term Loan Agreement)), a Delaware corporation ("Holdings"), Concrete Pumping Intermediate Acquisition Corp., a Delaware corporation ("Intermediate Holdings"), Industrea Acquisition Corp., a Delaware corporation ("Buyer"), the Subsidiary Parties (as defined below) from time to time party hereto (Holdings, Intermediate Holdings and the Subsidiary Parties, collectively, the "Loan Guarantors", and each, a "Loan Guarantor") and Credit Suisse AG, Cayman Islands Branch, in its capacity as administrative agent and collateral agent for the lenders party the Term Loan Agreement referred to below (in such capacity, the "Administrative Agent").

PRELIMINARY STATEMENT

Reference is hereby made to that certain Term Loan Agreement dated as of December 6, 2018 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Term Loan Agreement"), by and among, *inter alios*, Holdings, Intermediate Holdings, Buyer, Concrete Pumping Merger Sub Inc., a Delaware corporation (to be merged with and into Concrete Pumping Holdings, Inc., which is to be renamed Brundage-Bone Concrete Pumping Holdings Inc. upon consummation of the Merger), as the Borrower, the Lenders party thereto and the Administrative Agent.

The Loan Guarantors are entering into this Loan Guaranty in order to induce the Lenders to enter into and extend credit to the Borrower under the Term Loan Agreement and to guarantee the Secured Obligations.

Each Loan Guarantor will obtain benefits from the incurrence of Loans by the Borrower and the incurrence by the Loan Parties of Secured Hedging Obligations and Banking Services Obligations.

ACCORDINGLY, the parties hereto agree as follows:

ARTICLE 1
DEFINITIONS

Section 1.01. Definitions of Certain Terms Used Herein. As used in this Loan Guaranty, in addition to the terms defined in the preamble and preliminary statement above, the following terms shall have the following meanings:

"Accommodation Payment" has the meaning assigned to such term in Section 2.09.

"Administrative Agent" has the meaning assigned to such term in the preamble.

"Article" means a numbered article of this Loan Guaranty, unless another document is specifically referenced.

"Buyer" has the meaning assigned to such term in the preamble.

"Exhibit" refers to a specific exhibit to this Loan Guaranty, unless another document is specifically referenced.

"Guaranteed Obligations" has the meaning assigned to such term in Section 2.01.

"Guarantor Percentage" has the meaning assigned to such term in Section 2.09.

"Guaranty Supplement" has the meaning assigned to such term in Section 3.04.

"Holdings" has the meaning assigned to such term in the preamble.

"Intermediate Holdings" has the meaning assigned to such term in the preamble.

"Loan Guarantors" has the meaning assigned to such term in the preamble.

"Loan Guaranty" has the meaning assigned to such term in the preamble.

"Maximum Liability" has the meaning assigned to such term in Section 2.09.

"Non-ECP Guarantor" means each Loan Guarantor other than a Qualified ECP Guarantor.

"Non-Paying Guarantor" has the meaning assigned to such term in Section 2.09.

"Obligated Party" has the meaning assigned to such term in Section 2.02.

"Paying Guarantor" has the meaning assigned to such term in Section 2.09.

"Qualified ECP Guarantor" means, in respect of any Swap Obligation, each Loan Guarantor that has total assets exceeding $10,000,000 (or its equivalent) at the time the relevant Loan Guaranty or grant of the relevant security interest becomes effective with respect to such Swap Obligation or such other person as constitutes an "eligible contract participant" under the Commodity Exchange Act or any regulations promulgated thereunder and can cause another person to qualify as an "eligible contract participant" at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

"Section" means a numbered section of this Loan Guaranty, unless another document is specifically referenced.

"Subsidiary Parties" means (a) the Restricted Subsidiaries of the Borrower identified on Exhibit A hereto and (b) each other Restricted Subsidiary that becomes a party to this Loan Guaranty as a Subsidiary Party after the date hereof, in accordance with Section 3.04 herein and Section 5.12 of the Term Loan Agreement.

"Term Loan Agreement" has the meaning assigned to such term in the preliminary statement.

"UFCA" has the meaning assigned to such term in Section 2.09(a).

"UFTA" has the meaning assigned to such term in Section 2.09(a).

The foregoing definitions shall be equally applicable to both the singular and plural forms of the defined terms. Capitalized terms used in this Loan Guaranty and not otherwise defined herein shall have the meanings set forth in the Term Loan Agreement.

ARTICLE 2
LOAN GUARANTY

Section 2.01. Guaranty. Except as otherwise provided for herein (including under Section 3.15), each Loan Guarantor hereby agrees that it is jointly and severally liable for, and, as primary obligor and not merely as surety, absolutely, unconditionally and irrevocably guarantees to the Administrative Agent (acting as agent for the Secured Parties, pursuant to Article 8 of the Term Loan Agreement) for the ratable benefit of the Secured Parties, the full and prompt payment, when and as the same become due, whether at stated maturity, upon acceleration or otherwise, and at all times thereafter, of the Secured Obligations, including amounts that would become due but for the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. §362(a) (excluding, for the avoidance of doubt, any Excluded Swap Obligation), together with any and all expenses which may be incurred by the Administrative Agent and the other Secured Parties in collecting any of the Guaranteed Obligations that are reimbursable in accordance with Section 9.03 of the Term Loan Agreement (collectively the "Guaranteed Obligations"). Each Loan Guarantor further agrees that the Guaranteed Obligations may be increased, extended or renewed in whole or in part without notice to or further assent from it, and that it remains bound upon its guarantee notwithstanding any such extension or renewal. In addition, if any or all of the Guaranteed Obligations become due and payable hereunder, each Loan Guarantor, unconditionally and irrevocably, promises to pay such Guaranteed Obligations to the Administrative Agent for the benefit of the Secured Parties, on demand. Each Loan Guarantor unconditionally and irrevocably guarantees the payment of any and all of the Guaranteed Obligations whether or not due or payable by the Borrower upon the occurrence of any of the Events of Default specified in Section 7.01(f) or 7.01(g) of the Term Loan Agreement and thereafter irrevocably and unconditionally promises to pay such Guaranteed Obligations to the Administrative Agent for the benefit of the Secured Parties. This Loan Guaranty is a continuing one and shall remain in full force and effect until the Termination Date, and all liabilities to which it applies or may apply under the terms hereof shall be conclusively presumed to have been created in reliance hereon.

Section 2.02. Guaranty of Payment. This Loan Guaranty is a guaranty of payment and not of collection. Each Loan Guarantor waives any right to require the Administrative Agent or any Lender to sue the Borrower, any Loan Guarantor, any other guarantor, or any other Person obligated for all or any part of the Guaranteed Obligations (the Borrower, each Loan Guarantor, each other guarantor or such other Person, an "Obligated Party"), or otherwise to enforce its rights in respect of any Collateral securing all or any part of the Guaranteed Obligations. The Administrative Agent may enforce this Loan Guaranty at any time when an Event of Default exists.

Section 2.03. No Discharge or Diminishment of Loan Guaranty .

(a) Except as otherwise provided for herein (including under Section 3.15), the obligations of each Loan Guarantor hereunder are unconditional, irrevocable and absolute and not subject to any reduction, limitation, impairment or termination for any reason, including: (i) any claim of waiver, release, extension, renewal, settlement, surrender, alteration, or compromise of any of the Guaranteed Obligations, by operation of law or otherwise; (ii) any change in the corporate existence, structure or ownership of any Obligated Party; (iii) any insolvency, bankruptcy, reorganization or other similar proceeding affecting any other Obligated Party, or their assets or any resulting release or discharge of any obligation of any Obligated Party; (iv) the existence of any claim, setoff or other right which any Loan Guarantor may have at any time against any Obligated Party, the Administrative Agent, any Lender or any other Person, whether in connection herewith or in any unrelated transactions; (v) any direction as to application of payments by the Borrower or by any other party; (vi) any other continuing or other guaranty, undertaking or maximum liability of a guarantor or of any other party as to the Guaranteed Obligations; (vii) any payment on or in reduction of any such other guaranty or undertaking; (viii) any dissolution, termination or increase, decrease or change in personnel by the Borrower or (ix) any payment made to any Secured Party on the Guaranteed Obligations which any such Secured Party repays to the Borrower pursuant to court order in any bankruptcy, reorganization, arrangement, moratorium or other debtor relief proceeding, and each Loan Guarantor waives any right to the deferral or modification of its obligations hereunder by reason of any such proceeding.

(b) Except for termination of a Loan Guarantor's obligations hereunder or as expressly permitted by Section 3.15, the obligations of each Loan Guarantor hereunder are not subject to any defense or setoff, counterclaim, recoupment, or termination whatsoever by reason of the invalidity, illegality, or unenforceability of any of the Guaranteed Obligations or otherwise, or any Requirements of Law purporting to prohibit payment by any Obligated Party, of the Guaranteed Obligations or any part thereof.

(c) Further, the obligations of any Loan Guarantor hereunder are not discharged or impaired or otherwise affected by: (i) the failure of the Administrative Agent or any other Secured Party to assert any claim or demand or to enforce any remedy with respect to all or any part of the Guaranteed Obligations; (ii) any waiver or modification of or supplement to any provision of any agreement relating to the Guaranteed Obligations; (iii) any release, non-perfection, or invalidity of any indirect or direct security for the obligations of the Borrower for all or any part of the Guaranteed Obligations or any obligations of any other guarantor of or other Person liable for any of the Guaranteed Obligations; (iv) any action or failure to act by the Administrative Agent or any other Secured Party with respect to any Collateral securing any part of the Guaranteed Obligations; or (v) any default, failure or delay, willful or otherwise, in the payment or performance of any of the Guaranteed Obligations, or any other circumstance, act, omission or delay that might in any manner or to any extent vary the risk of such Loan Guarantor or that would otherwise operate as a discharge of any Loan Guarantor as a matter of law or equity, in each case other than as set forth in Section 3.15.

Section 2.04. Defenses Waived. To the fullest extent permitted by applicable Requirements of Law, and except for termination of a Loan Guarantor's obligations hereunder or as otherwise provided for herein (including under Section 3.15), each Loan Guarantor hereby waives any defense based on or arising out of any defense of the Borrower or any other Loan Guarantor or arising out of the disability of the Borrower or any other Loan Guarantor or any other party or the unenforceability of all or any part of the Guaranteed Obligations or any part thereof from any cause, or the cessation from any cause of the liability of the Borrower or any other Loan Guarantor. Without limiting the generality of the foregoing, each Loan Guarantor irrevocably waives acceptance hereof, presentment, demand, protest and, to the fullest extent permitted by applicable Requirements of Law, any notice not provided for herein or in any other Loan Document, including any notice of nonperformance, notice of protest, notice of dishonor, notice of acceptance of this Loan Guaranty, and any notice of the existence, creation or incurring of new or additional Guaranteed Obligations, as well as any requirement that at any time any action be taken by any Person against any Obligated Party, or any other Person, including any right (except as may be required by applicable Requirements of Law and to the extent the relevant requirement cannot be waived) to require the Administrative Agent to (i) proceed against the Borrower, any other guarantor or any other party, (ii) proceed against or exhaust any security held from the Borrower, any other Loan Guarantor or any other party or (iii) pursue any other remedy in the Administrative Agent's power whatsoever. The Administrative Agent may, at its election and in accordance with the terms of the applicable Loan Documents, foreclose on any Collateral held by it by one or more judicial or nonjudicial sales, whether or not every aspect of any such sale is commercially reasonable (to the extent permitted by applicable Requirements of Law), accept an assignment of any such Collateral in lieu of foreclosure or otherwise act or fail to act with respect to any Collateral securing all or a part of the Guaranteed Obligations, and the Administrative Agent may, at its election, compromise or adjust any part of the Guaranteed Obligations, make any other accommodation with any Obligated Party or exercise any other right or remedy available to it against any Obligated Party, or any security, without affecting or impairing in any way the liability of such Loan Guarantor under this Loan Guaranty, except as otherwise provided in Section 3.15. To the fullest extent permitted by applicable Requirements of Law, each Loan Guarantor waives any defense arising out of any such election even though such election may operate, pursuant to applicable Requirements of Law, to impair or extinguish any right of reimbursement or subrogation or other right or remedy of any Loan Guarantor against any Obligated Party or any security.

Section 2.05. Authorization. Each Loan Guarantor authorizes the Administrative Agent and the other Secured Parties (as applicable) without notice or demand (except as may be required by applicable Requirements of Law and to the extent the relevant requirement cannot be waived), and without affecting or impairing its liability hereunder (except as set forth in Section 3.15), from time to time, subject to the Intercreditor Agreement and the terms of the referenced Loan Documents, to:

(a) change the manner, place or terms of payment of, and/or change or extend the time of payment of, renew, increase, accelerate or alter, any of the Guaranteed Obligations (including any increase or decrease in the principal amount thereof or the rate of interest or fees thereon), any security therefor, or any liability incurred directly or indirectly in respect thereof, and this Loan Guaranty shall apply to the Guaranteed Obligations as so changed, extended, renewed or altered;

(b) take and hold security for the payment of the Guaranteed Obligations and sell, exchange, release, impair, surrender, realize upon or otherwise deal with in any manner and in any order any property by whomsoever at any time pledged or mortgaged to secure, or howsoever securing, the Guaranteed Obligations or any liabilities (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and/or any offset there against;

(c) exercise or refrain from exercising any rights against the Borrower, any other Loan Party or others or otherwise act or refrain from acting;

(d) release or substitute any endorser, any guarantor, the Borrower, any other Loan Party and/or any other obligor;

(e) settle or compromise any of the Guaranteed Obligations, any security therefor or any liability (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and/or subordinate the payment of all or any part thereof to the payment of any liability (whether due or not) of the Borrower to its creditors other than the Secured Parties;

(f) apply any sums by whomsoever paid or howsoever realized to any liability or liabilities of the Borrower to the Secured Parties regardless of what liability or liabilities of the Borrower remain unpaid;

(g) consent to or waive any breach of, or any act, omission or default under, this Loan Guaranty, the Term Loan Agreement, any other Loan Document, any Hedge Agreement with respect to any Secured Hedging Obligation or any of the instruments or agreements referred to herein or therein, or otherwise amend, modify or supplement this Loan Guaranty, the Term Loan Agreement, any other Loan Document, any Hedge Agreement with respect to any Secured Hedging Obligation or any of such other instruments or agreements; and/or

(h) take any other action which would, under otherwise applicable principles of common law, give rise to a legal or equitable discharge of the Loan Guarantors from their respective liabilities under this Loan Guaranty.

Section 2.06. Rights of Subrogation. No Loan Guarantor will assert any right, claim or cause of action, including any claim of subrogation, contribution or indemnification that it has against any Loan Party in respect of this Loan Guaranty until the occurrence of the Termination Date; provided that if any amount is paid to such Loan Guarantor on account of such subrogation rights at any time prior to the Termination Date, then unless such Loan Guarantor has already discharged its liabilities under this Loan Guaranty in an amount equal to such Loan Guarantor's Maximum Liability as of such date, such amount shall be held by the recipient Loan Guarantor in trust for the benefit of the Secured Parties and shall forthwith be paid by the recipient Loan Guarantor to the Administrative Agent (for the benefit of the Secured Parties) to be credited and applied to the Guaranteed Obligations, whether matured or unmatured, in accordance with Section 2.15(b) of the Term Loan Agreement.

Section 2.07. Reinstatement; Stay of Acceleration. If at any time any payment of any portion of the Guaranteed Obligations is rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, or reorganization of the Borrower or otherwise, each Loan Guarantor's obligations under this Loan Guaranty with respect to such payment shall be reinstated at such time as though the payment had not been made. If acceleration of the time for payment of any of the Guaranteed Obligations is stayed upon the insolvency, bankruptcy or reorganization of the Borrower, all such amounts otherwise subject to acceleration under the terms of any agreement relating to the Guaranteed Obligations shall nonetheless be payable by the Loan Guarantors forthwith on demand by the Administrative Agent.

Section 2.08. Information. Each Loan Guarantor assumes all responsibility for being and keeping itself informed of the Borrower's financial condition and assets, and of all other circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations and the nature, scope and extent of the risks that each Loan Guarantor assumes and incurs under this Loan Guaranty, and agrees that none of the Administrative Agent, any Lender or any other Secured Party shall have any duty to advise any Loan Guarantor of information known to it regarding those circumstances or risks.

Section 2.09. Contribution; Subordination; Maximum Liability.

(a) In the event that any Loan Guarantor (a "Paying Guarantor") makes any payment or payments under this Loan Guaranty or suffers any loss as a result of any realization upon any Collateral granted by it to secure its obligations under this Loan Guaranty (each such payment or loss, an "Accommodation Payment"), each other Loan Guarantor (each a "Non-Paying Guarantor") shall contribute to such Paying Guarantor an amount equal to such Non-Paying Guarantor's "Guarantor Percentage" of such Accommodation Payment by such Paying Guarantor. For purposes of this Article 2, each Non-Paying Guarantor's "Guarantor Percentage" with respect to any Accommodation Payment by a Paying Guarantor shall be determined as of the date on which such Accommodation Payment was made by reference to the ratio of (a) such Non-Paying Guarantor's Maximum Liability (as defined below) as of such date to (b) the aggregate Maximum Liability of all Loan Guarantors hereunder (including such Paying Guarantor) as of such date. As of any date of determination, the "Maximum Liability" of each Loan Guarantor shall be equal to the maximum amount of liability which could be asserted against such Loan Guarantor hereunder and under the Term Loan Agreement without (i) rendering such Loan Guarantor "insolvent" within the meaning of Section 101(32) of the Bankruptcy Code, Section 2 of the Uniform Fraudulent Transfer Act ("UFTA") or Section 2 of the Uniform Fraud Conveyance Act ("UFCA"), (ii) leaving such Loan Guarantor with unreasonably small capital or assets, within the meaning of Section 548 of the Bankruptcy Code, Section 4 of the UFTA or Section 5 of the UFCA, or (iii) leaving such Loan Guarantor unable to pay its debts as they become due within the meaning of Section 548 of the Bankruptcy Code, Section 4 of the UFTA or Section 5 of the UFCA. Nothing in this provision shall affect any Loan Guarantor's several liability for the entire amount of the Guaranteed Obligations (up to such Loan Guarantor's Maximum Liability). Each of the Loan Guarantors covenants and agrees that its right to receive any contribution under this Loan Guaranty from a Non-Paying Guarantor shall be subordinate and junior in right of payment to the Secured Obligations until the Termination Date. If, prior to the Termination Date, any such contribution payment is received by a Paying Guarantor at any time when an Event of Default exists, such contribution payment shall be collected, enforced and received by such Loan Guarantor as trustee for the Secured Parties and be paid over to the Administrative Agent on account of the Secured Obligations, but without affecting or impairing in any manner the liability of such Loan Guarantor under the other provisions of this Loan Guaranty. This provision is for the benefit of the Administrative Agent, the Lenders and the other Secured Parties and, subject to the terms of the other Loan Documents, may be enforced by the Administrative Agent on behalf of itself, the Lenders and the other Secured Parties in accordance with the terms hereof.

(b) It is the desire and intent of the Loan Guarantors and the Secured Parties that this Loan Guaranty shall be enforced against the Loan Guarantors to the fullest extent permissible under the Requirements of Law and public policies applied in each jurisdiction in which enforcement is sought. The provisions of this Loan Guaranty are severable, and in any action or proceeding involving any state corporate law, or any state, Federal or foreign bankruptcy, insolvency, reorganization or other Requirements of Law affecting the rights of creditors generally, if the obligations of any Loan Guarantor under this Loan Guaranty would otherwise be held or determined to be avoidable, invalid or unenforceable on account of the amount of such Loan Guarantor's liability under this Loan Guaranty, then, notwithstanding any other provision of this Loan Guaranty to the contrary, the amount of such liability shall, without any further action by the Loan Guarantors or the Secured Parties, be automatically limited and reduced, with respect to such Loan Guarantor, to such Loan Guarantor's Maximum Liability. Each Loan Guarantor agrees that the Guaranteed Obligations may at any time and from time to time exceed the Maximum Liability of such Loan Guarantor without impairing this Loan Guaranty or affecting the rights and remedies of the Administrative Agent hereunder; provided that nothing in this sentence shall be construed to increase any Loan Guarantor's obligations hereunder beyond its Maximum Liability.

Section 2.10. Representations and Warranties. As, when (including on the date hereof) and to the extent required in accordance with the terms of the Term Loan Agreement, each Loan Guarantor hereby makes each applicable representation and warranty made in the Loan Documents by the Borrower with respect to such Loan Guarantor and each Loan Guarantor hereby further acknowledges and agrees that such Loan Guarantor has, independently and without reliance upon any Secured Party and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Loan Guaranty and each other Loan Document to which it is or is to be a party, and such Loan Guarantor has established adequate means of obtaining from each other Loan Guarantor on a continuing basis information pertaining to the business, condition (financial or otherwise), operations, performance, properties and prospects of each other Loan Guarantor.

Section 2.11. Covenants. Each Loan Guarantor covenants and agrees that, until the Termination Date, such Loan Guarantor will perform and observe, and cause each of its subsidiaries that constitutes a Restricted Subsidiary to perform and observe, all of the terms, covenants and agreements set forth in the Loan Documents that the Borrower has agreed to cause such Loan Guarantor or such subsidiary to perform or observe. Until the Termination Date, no Guarantor shall, without the prior written consent of the Administrative Agent, commence or join with any other Person in commencing any bankruptcy, reorganization or insolvency case or proceeding against the Borrower or any Guarantor (it being understood and agreed, for the avoidance of doubt, that nothing in this Section 2.11 shall prohibit any Guarantor from commencing or joining with the Borrower or Guarantor or other Restricted Subsidiary as a co-debtor in any bankruptcy, reorganization or insolvency case or proceeding).

ARTICLE 3
GENERAL PROVISIONS

Section 3.01. Liability Cumulative. The liability of each Loan Guarantor under this Loan Guaranty is in addition to and shall be cumulative with all liabilities of such Loan Guarantor to the Administrative Agent and the Lenders under the Term Loan Agreement and the other Loan Documents to which such Loan Guarantor is a party or in respect of any obligations or liabilities of the other Loan Guarantors, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

Section 3.02. No Waiver; Amendments . No delay or omission of the Administrative Agent or any other Secured Party in exercising any right or remedy granted under this Loan Guaranty shall impair such right or remedy or be construed to be a waiver of any Default or Event of Default or an acquiescence therein, and any single or partial exercise of any such right or remedy shall not preclude any other or further exercise thereof or the exercise of any other right or remedy. No waiver, amendment or other variation of the terms, conditions or provisions of this Loan Guaranty whatsoever shall be valid unless in writing signed by the Loan Guarantors and the Administrative Agent in accordance with Section 9.02 of the Term Loan Agreement and then only to the extent specifically set forth in such writing.

Section 3.03. Severability of Provisions. To the extent permitted by applicable Requirements of Law, any provision of this Loan Guaranty that is held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions of this Loan Guaranty; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

Section 3.04. Additional Subsidiaries. Restricted Subsidiaries of the Borrower may be required to enter into this Loan Guaranty as Subsidiary Parties pursuant to and in accordance with Section 5.12 of the Term Loan Agreement. Upon execution and delivery by any such Restricted Subsidiary of an instrument in substantially the form of Exhibit B hereto (each, a "Guaranty Supplement"), such Restricted Subsidiary shall become a Subsidiary Party hereunder with the same force and effect as if originally named as a Subsidiary Party herein. The execution and delivery of any such instrument shall not require the consent of any other Loan Guarantor hereunder or any other Person. The rights and obligations of each Loan Guarantor hereunder shall remain in full force and effect notwithstanding the addition of any new Loan Guarantor as a party to this Loan Guaranty.

Section 3.05. Headings. The titles of and section headings in this Loan Guaranty are for convenience of reference only, and shall not govern the interpretation of any of the terms and provisions of this Loan Guaranty.

Section 3.06. Entire Agreement. This Loan Guaranty, the other Loan Documents constitute the entire agreement among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

Section 3.07. CHOICE OF LAW. THIS LOAN GUARANTY AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS LOAN GUARANTY, WHETHER IN TORT, CONTRACT (AT LAW OR IN EQUITY) OR OTHERWISE, SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

Section 3.08. CONSENT TO JURISDICTION; CONSENT TO SERVICE OF PROCESS.

(a) EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF ANY U.S. FEDERAL OR NEW YORK STATE COURT SITTING IN THE BOROUGH OF MANHATTAN, IN THE CITY OF NEW YORK (OR ANY APPELLATE COURT THEREFROM) OVER ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS LOAN GUARANTY AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING SHALL (EXCEPT AS PERMITTED BELOW) BE HEARD AND DETERMINED IN SUCH NEW YORK STATE OR, TO THE EXTENT PERMITTED BY APPLICABLE REQUIREMENTS OF LAW, FEDERAL COURT. EACH PARTY HERETO AGREES THAT SERVICE OF ANY PROCESS, SUMMONS, NOTICE OR DOCUMENT BY REGISTERED MAIL ADDRESSED TO SUCH PERSON SHALL BE EFFECTIVE SERVICE OF PROCESS AGAINST SUCH PERSON FOR ANY SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT. EACH PARTY HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON SUCH JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY APPLICABLE REQUIREMENTS OF LAW.

(b) EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT IT MAY LEGALLY AND EFFECTIVELY DO SO, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS LOAN GUARANTY AND BROUGHT IN ANY COURT REFERRED TO IN PARAGRAPH (a) OF THIS SECTION. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE REQUIREMENTS OF LAW, ANY CLAIM OR DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION, SUIT OR PROCEEDING IN ANY SUCH COURT.

(c) TO THE EXTENT PERMITTED BY APPLICABLE REQUIREMENTS OF LAW, EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS UPON IT AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL (OR ANY SUBSTANTIALLY SIMILAR FORM OF MAIL) DIRECTED TO IT AT ITS ADDRESS FOR NOTICES PROVIDED IN SECTION 9.01 OF THE TERM LOAN AGREEMENT. EACH PARTY HERETO HEREBY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER THAT SERVICE OF PROCESS WAS INVALID AND INEFFECTIVE. NOTHING IN THIS LOAN GUARANTY WILL AFFECT THE RIGHT OF ANY PARTY TO THIS LOAN GUARANTY TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW.

Section 3.09. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE REQUIREMENTS OF LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY SUIT, ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS LOAN GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY 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 LOAN GUARANTY BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 3.10. Indemnity. Each Loan Guarantor hereby agrees to indemnify the Administrative Agent and the other Indemnitees, as set forth in Section 9.03 of the Term Loan Agreement.

Section 3.11. Counterparts. This Loan Guaranty may be executed in counterparts (and by different parties hereto on 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 Loan Guaranty by facsimile or by email or other electronic transmission as a ".pdf" or ".tif" attachment shall be effective as delivery of a manually executed counterpart of this Loan Guaranty.

Section 3.12. INTERCREDITOR AGREEMENT GOVERNS. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THE GUARANTEE OF THE GUARANTEED OBLIGATIONS GRANTED TO THE ADMINISTRATIVE AGENT, FOR THE BENEFIT OF THE SECURED PARTIES, PURSUANT TO THIS LOAN GUARANTY AND THE EXERCISE OF ANY RIGHT OR REMEDY BY THE ADMINISTRATIVE AGENT ARE SUBJECT TO THE PROVISIONS OF THE INTERCREDITOR AGREEMENT. IN THE EVENT OF ANY CONFLICT BETWEEN THE PROVISIONS OF THE INTERCREDITOR AGREEMENT AND THIS LOAN GUARANTY, THE PROVISIONS OF THE INTERCREDITOR AGREEMENT SHALL GOVERN AND CONTROL.

Section 3.13. Successors and Assigns. Whenever in this Loan Guaranty any party hereto is referred to, such reference shall be deemed to include the successors and permitted assigns of such party; and all covenants, promises and agreements by or on behalf of any Loan Guarantor or the Administrative Agent that are contained in this Loan Guaranty shall bind and inure to the benefit of their respective successors and permitted assigns. Except in a transaction permitted (or not restricted) under the Term Loan Agreement, no Loan Guarantor may assign any of its rights or obligations hereunder without the written consent of the Administrative Agent.

Section 3.14. Survival of Agreement. Without limitation of any provision of the Term Loan Agreement or Section 3.10 hereof, all covenants, agreements, indemnities, representations and warranties made by the Loan Guarantors in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Loan Guaranty or any other Loan Document shall be considered to have been relied upon by the Lenders and shall survive the execution and delivery of the Loan Documents and the making of any Loans, regardless of any investigation made by any such Lender or on its behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default or Event of Default or incorrect representation or warranty at the time any credit is extended under the Term Loan Agreement, and shall continue in full force and effect until the Termination Date, or with respect to any individual Loan Guarantor until such Loan Guarantor is otherwise released from its obligations under this Loan Guaranty in accordance with Section 3.15.

Section 3.15. Release of Loan Guarantors. A Subsidiary Party shall automatically be released from its obligations hereunder and its Loan Guaranty shall be automatically released in the circumstances described in Article 8 and Section 9.21 of the Term Loan Agreement. In connection with any such release, the Administrative Agent shall promptly execute and deliver to any Loan Guarantor, at such Loan Guarantor's expense, all documents that such Loan Guarantor shall reasonably request to evidence such termination or release. Any execution and delivery of documents pursuant to the preceding sentence of this Section 3.15 shall be without recourse to or warranty by the Administrative Agent (other than as to the Administrative Agent's authority to execute and deliver such documents).

Section 3.16. Payments. All payments made by any Loan Guarantor hereunder will be made without setoff, counterclaim or other defense and on the same basis as payments are made by the Borrower under Sections 2.14 and 2.15 of the Term Loan Agreement.

Section 3.17. Notice, etc. All notices and other communications provided for hereunder shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile or email or other electronic transmission, as follows:

(a) if to any Loan Guarantor, addressed to it in care of the Borrower at its address specified in Section 9.01 of the Term Loan Agreement;

(b) if to the Administrative Agent or any Lender, at its address specified in Section 9.01 of the Term Loan Agreement;

(c) if to any Secured Party in respect of any Secured Hedging Obligations, at its address specified in the Hedge Agreement to which it is a party; or

(d) if to any Secured Party in respect of any Banking Services Obligations, at its address specified in the relevant documentation to which it is a party.

Section 3.18. Set Off. In addition to any rights now or hereafter granted under applicable Requirements of Law and not by way of limitation of any such rights, while an Event of Default exists, the Administrative Agent, each Lender and each of their respective Affiliates shall be entitled to rights of setoff to the extent provided in Section 9.09 of the Term Loan Agreement.

Section 3.19. Waiver of Consequential Damages, Etc. To the extent permitted by applicable Requirements of Law, none of the Loan Guarantors nor the Secured Parties shall assert, and each hereby waives, any claim against each other or any Related Party thereof, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Loan Guaranty or any agreement or instrument contemplated hereby, except, in the case of any claim by any Indemnitee against any of the Loan Guarantors, to the extent such damages would otherwise be subject to indemnification pursuant to the terms of Section 3.10.

Section 3.20. Keepwell. Each Qualified ECP Guarantor hereby jointly and severally, absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each Non-ECP Guarantor to honor all of its obligations under this Loan Guaranty in respect of Swap Obligations that would otherwise be Excluded Swap Obligations (provided, however, that each Qualified ECP Guarantor shall only be liable under this Section 3.20 for the maximum amount of such liability that can be hereby incurred, and otherwise subject to the limitations on the obligations of Loan Guarantors contained in this Loan Guaranty, without rendering its obligations under this Section 3.20, or otherwise under this Loan Guaranty, voidable under applicable Requirements of Law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of each Qualified ECP Guarantor under this Section 3.20 shall remain in full force and effect until the occurrence of circumstances described in Section 3.15 herein. This Section 3.20 constitutes, and shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each Non-ECP Guarantor for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each Loan Guarantor and the Administrative Agent have executed this Loan Guaranty as of the date first above written.

Holdings:

CONCRETE PUMPING HOLDINGS ACQUISITION CORP.
(which on the Closing Date shall be renamed as CONCRETE PUMPING HOLDINGS, INC.), as Holdings

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer

Intermediate Holdings:

CONCRETE PUMPING INTERMEDIATE ACQUISITION CORP., as Intermediate Holdings

By: /s/ Tariq Osman
Name: Tariq Osman
Title: President

Buyer:

INDUSTREA ACQUISITION CORP., as Buyer

By: /s/ Tariq Osman
Name: Tariq Osman
Title: Executive Vice President

Subsidiary Parties:

CONCRETE PUMPING INTERMEDIATE HOLDINGS, LLC

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer, Secretary and Treasurer

CONCRETE PUMPING PROPERTY HOLDINGS, LLC

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer, Secretary and Treasurer

BRUNDAGE-BONE CONCRETE PUMPING, INC.

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer, Secretary and Treasurer

ECO-PAN, INC.

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer, Secretary and Treasurer

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH,
as Administrative Agent

By: /s/ Vipul Dhadda
Name: Vipul Dhadda
Title: Authorized Signatory

By: /s/ Brady Bingham
Name: Brady Bingham
Title: Authorized Signatory

EXHIBIT A
SUBSIDIARY PARTIES

1. Concrete Pumping Intermediate Holdings, LLC
2. Concrete Pumping Property Holdings, LLC
3. Brundage-Bone Concrete Pumping Inc.
4. Eco-Pan, Inc.

EXHIBIT B
JOINDER AGREEMENT

THIS JOINDER AGREEMENT (this "Agreement"), dated as of [●] [●], 20[●], is entered into by [●], a [●] ([each, a] [the] "New Subsidiary"), in favor of CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH, as administrative agent (in such capacity, the "Administrative Agent") pursuant to that certain Loan Guaranty, dated as of December 6, 2018 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Loan Guaranty"), Concrete Pumping Holdings, Inc. (formerly known as Concrete Pumping Holdings Acquisition Corp.), a Delaware corporation ("Holdings"), Concrete Pumping Intermediate Acquisition Corp., a Delaware corporation ("Intermediate Holdings"), Industrea Acquisition Corp., a Delaware corporation ("Buyer"), the Subsidiary Parties (as defined below) from time to time party thereto (Holdings, Intermediate Holdings and the Subsidiary Parties, collectively, the "Loan Guarantors", and each, a "Loan Guarantor") and the Administrative Agent. All capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Loan Guaranty.

[Each] [The] New Subsidiary, for the benefit of the Secured Parties, hereby agrees as follows:

1. [Each] [The] New Subsidiary hereby acknowledges, agrees and confirms that, by its execution of this Agreement, [each] [the] New Subsidiary will be, and be deemed to be, a Loan Guarantor under the Loan Guaranty and a Loan Guarantor for all purposes of the Term Loan Agreement and shall have all of the rights, benefits, duties and obligations of a Loan Guarantor thereunder as if it had executed the Loan Guaranty. [Each] [The] New Subsidiary hereby ratifies, as of the date hereof, and agrees to be bound by, all of the terms, provisions and conditions contained in the Loan Guaranty. Without limiting the generality of the foregoing terms of this paragraph 1, [each] [the] New Subsidiary hereby absolutely and unconditionally guarantees, jointly and severally with the other Loan Guarantors, to the Administrative Agent and the Secured Parties, the prompt payment of the Guaranteed Obligations in full when due (whether at stated maturity, upon acceleration or otherwise) to the extent of and in accordance with the Loan Guaranty.

2. [Each] [The] New Subsidiary hereby waives acceptance by the Administrative Agent and the Secured Parties of the guaranty by the New Subsidiary upon the execution of this Agreement by [each] [the] New Subsidiary.

3. [Each] [The] New Subsidiary hereby (x) makes, as of the date hereof, the representation and warranty set forth in Section 2.10 of the Loan Guaranty[, except as set forth on Schedule A hereto,][1] and (y) agrees to perform and observe, and to cause each of its Restricted Subsidiaries to perform and observe, the covenant set forth in Section 2.11 of the Loan Guaranty.

4. From and after the execution and delivery hereof by the parties hereto, this Agreement shall constitute a "Loan Document" for all purposes of the Term Loan Agreement and the other Loan Documents.

5. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all of which shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or by email or other electronic transmission as a ".pdf" or ".tif" attachment shall be effective as delivery of a manually executed counterpart of this Agreement.

[1] Subject to Section 5.12(c)(x) of the Term Loan Agreement.

6. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

[Signature Page Follows]

IN WITNESS WHEREOF, [each] [the] New Subsidiary has caused this Agreement to be duly executed by its authorized officer, as of the day and year first above written.

[NEW SUBSIDIARY]

By: _____

Name:
Title:

[SCHEDULE A
CERTAIN EXCEPTIONS]

Exhibit 10.35

Execution Version

STOCKHOLDERS AGREEMENT

This Stockholders Agreement (this "**Agreement**") is entered into on December 6, 2018, by and among Concrete Pumping Holdings, Inc. (f/k/a Concrete Pumping Holdings Acquisition Corp.), a Delaware corporation (the "**Company**"), and the undersigned parties listed on the signature pages hereto (each, an "**Investor**" and, collectively, the "**Investors**"). Capitalized terms used in this Agreement have the meanings given to them in Section 1.01.

RECITALS

WHEREAS, reference is made to that certain Agreement and Plan of Merger, by and among the Company, Industrea Acquisition Corp. ("**Industrea**"), Concrete Pumping Intermediate Acquisitions Corp., Concrete Pumping Merger Sub Inc., Industrea Acquisition Merger Sub Inc., and Concrete Pumping Holdings, Inc. ("**CPH**"), and PGP Investors, LLC solely in its capacity as the initial Holder Representative thereunder, dated September 7, 2018 (the "**Merger Agreement**"), which provides for the business combination among the Company, Industrea and CPH (the "**Business Combination**"), pursuant to which each of CPH and Industrea will be acquired by the Company and become wholly owned subsidiaries of the Company;

WHEREAS, pursuant to the terms of those certain Rollover Agreements, each dated September 7, 2018 (the "**Rollover Agreements**"), by and between the Company and the CPH equity owners parties thereto (collectively with the UK Rollover Investors (as defined below), the "**Rollover Investors**"), in connection with the consummation of the Business Combination, the Company will issue shares of its common stock, par value $0.0001 per share ("**Company Common Stock**") to the Rollover Investors;

WHEREAS, pursuant to the terms of (i) that certain Share Purchase Agreement dated September 7, 2018 (the "**UK Share Purchase Agreement**"), by and between Lux Concrete Holdings II S.á r.l. ("**Lux II**") and the Vendors parties thereto (the "**UK Rollover Investors**"), and (ii) those certain Put and Call Options (the "**UK Put/Call Agreement**") by and among the UK Rollover Investors, Lux II, CPH, the Company and the other Subsidiaries of CPH and the Company named therein, in connection with the consummation of the Business Combination, the Company will issue shares of Company Common Stock to the UK Rollover Investors;

WHEREAS, pursuant to the Merger Agreement the Company will issue shares of Company Common Stock to the holders of Industrea common stock on a one-for-one basis in exchange for their shares of Industrea common stock;

WHEREAS, prior to Industrea's initial public offering (the "**IPO**"), Industrea Alexandria LLC (the "**Sponsor**") purchased an aggregate of 5,750,000 shares of Class B common stock, par value $0.0001 per share, of Industrea (the "**Founder Shares**"), and subsequently transferred a total of 28,750 shares of Founder Shares and 277,500 Private Placement Warrants (as define to each of Industrea's five independent directors (collectively with the Sponsor, the "**Initial Investors**");

WHEREAS, the Founder Shares are convertible into shares of Class A common stock, par value $0.0001 per share, of Industrea ("**Class A Common Stock**") on the terms provided in Industrea's second amended and restated certificate of incorporation;

WHEREAS, the Sponsor purchased an aggregate of 11,100,000 warrants exercisable for shares of Class A Common Stock in a private placement that was completed simultaneously with the consummation of the IPO (the "**Private Placement Warrants**");

WHEREAS, in connection with the Business Combination, the Company will assume all of the outstanding warrants (including the Private Placement Warrants) and each such warrant will become exercisable for one share of Company Common Stock in accordance with the terms of the Warrant Agreement; and

WHEREAS, pursuant to the terms of that certain Subscription Agreement, dated September 7, 2018 (the "**Argand Subscription Agreement**"), by and between Industrea and Argand Partners Fund, LP (the "**Argand Investor**"), in connection with the consummation of the Business Combination, the Argand Investor will purchase shares of Class A Common Stock (" **Argand PIPE Shares**") which will be exchanged for shares of Company Common Stock on a one-for-one basis pursuant to the Merger Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1
DEFINITIONS

1.1 Certain Definitions. As used in this Agreement, the following terms shall have the meanings set forth below:

(a) "**Affiliate**" of any person or entity, shall mean any other person or entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first person or entity. As used in this definition, the term "control," including the correlative terms "controlled by" and "under common control with," means (i) the direct or indirect ownership of more than 50% of the voting rights of a person or entity or (ii) the possession, directly or indirectly, of the power to direct or cause the direction of management or policies (whether through ownership of securities or any equity or other ownership interest, by contract or otherwise). For the avoidance of doubt, for purposes of this Agreement (i) the Peninsula Holder shall not be considered an Affiliate of the Company or any of its subsidiaries, and (ii)(a) any fund, entity or account managed, advised or sub-advised, directly or indirectly, by a Holder or any of its Affiliates, shall be considered an Affiliate of such Holder and (b) with respect to any fund, entity or account managed, advised or sub-advised directly or indirectly, by any Holder or any of its Affiliates, the direct or indirect equity owners thereof, including limited partners of any Holder or any Affiliate thereof, shall be considered an Affiliate of such Holder..

(b) "**Agreement**" has the meaning set forth in the Preamble.

(c) "**Argand Investor**" has the meaning set forth in the Recitals.

(d) "**Argand PIPE Shares**" has the meaning set forth in the Recitals.

(e) "**Board**" shall mean the Company's Board of Directors.

(f) "**Business Combination**" has the meaning set forth in the Recitals.

(g) "**CPH Management Holders**" shall mean the Rollover Investors set forth on Exhibit B hereto.

(h) "**Class A Common Stock**" has the meaning set forth in the Recitals.

(i) "**Closing**" shall mean the closing of the transactions contemplated under the Merger Agreement.

(j) "**Commission**" shall mean the United States Securities and Exchange Commission.

(k) "**Company**" has the meaning set forth in the Preamble.

(l) "**Company Common Stock**" has the meaning set forth in the Recitals.

(m) "**Competitor**" means the concrete pumping and concrete waste management services businesses listed on an officer's certificate delivered by the Company to the Peninsula Holder on the date hereof, which has been mutually agreed to by the Company and the Peninsula Holder prior to the date hereof, which certificate may be updated after the date hereof, from time to time, upon the mutual agreement of the Company and the Peninsula Holder acting reasonably and in good faith.

(n) "**Competitor Director**" has the meaning set forth in Section 4.3.

(o) "**Dollars**" or "**$**" shall mean the currency of the United States of America.

(p) "**Exchange Act**" shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission promulgated thereunder, all as the same shall be in effect at the time.

(q) "**FINRA**" has the meaning set forth in Section 2.5(q).

(r) "**Founder Shares**" has the meaning set forth in the Recitals.

(s) "**Holder**" shall mean an Investor who holds Registrable Securities (including their donees, pledgees, assignees, transferees and other successors) and any holder of Registrable Securities to whom the registration rights conferred by this Agreement have been duly and validly transferred in accordance with Section 2.11 of this Agreement.

(t) "**IPO**" has the meaning set forth in the Recitals.

(u) "**Indemnified Party**" has the meaning set forth in Section 2.7(c).

(v) "**Indemnifying Party**" has the meaning set forth in Section 2.7(c).

(w) "**Industrea**" has the meaning set forth in the Recitals.

(x) "**Initial Agreement**" has the meaning set forth in the Recitals.

(y) "**Initial Investors**" shall mean the holders of the Founder Shares and the Private Placement Warrants set forth on Exhibit A hereto.

(z) "**Initiating Holders**" shall mean any Holder or group of Holders holding more than $25,000,000 million in Registrable Securities, based on the closing price of the Company's Common Stock on the day on which any request or notification is made under this Agreement.

(aa) "**Investors**" has the meaning set forth in the Preamble.

(bb) "**Majority Holders**" has the meaning set forth in Section 2.5.

(cc) "**Merger Agreement**" has the meaning set forth in the Recitals.

(dd) "**New Registration Statement**" has the meaning set forth in Section 2.1(a)(iii).

(ee) "**Non-Management CPH Holders**" means the Rollover Investors set forth on Exhibit C hereto.

(ff) "**One Director Range**" means the Peninsula Holder's beneficial ownership of more than five percent (5%) but not more than fifteen percent (15%) of the issued and outstanding shares of Company Common Stock as of the Closing.

(gg) "**Other Selling Stockholders**" shall mean persons or entities other than Holders who, by virtue of agreements with the Company, are entitled to include their Other Shares in certain registrations hereunder.

(hh) "**Other Shares**" shall mean securities of the Company, other than Registrable Securities (as defined below), with respect to which registration rights have been granted.

(ii) "**PDF**" has the meaning set forth in Section 5.12.

(jj) "**Peninsula Board Right Period**" has the meaning set forth in Section 4.2.

(kk) "**Peninsula Director**" means a member of the Board who was appointed or elected to the Board as a Peninsula Nominee.

(ll) "**Peninsula Director Replacement**" has the meaning set forth in Section 4.3.

(mm) "**Peninsula Holder**" means BBCP Investors, LLC.

(nn) "**Peninsula Nominee(s)**" means an individual(s) designated by the Peninsula Holder for election (or re-election) to the Board.

(oo) "**Peninsula Takedown**" has the meaning set forth in Section 2.2(a).

(pp) "**Portfolio Company**" means any corporation, limited liability company, trust, joint venture, association, company, partnership, collective investment scheme or other entity in which the Peninsula Holder has invested, directly or indirectly, and which constitutes an Affiliate of the Peninsula Holder as defined above.

(qq) "**Preferred Stock**" has the meaning set forth in clause (ss) of this Section 1.1.

(rr) "**Preferred Stock Conversion Shares**" means the Company Common Stock issued upon conversion of the Preferred Stock.

(ss) "**Preferred Stock Subscription Agreement**" means the subscription agreement, dated September 7, 2018, between the Company and the other parties thereto, providing for the issuance and sale by the Company of shares of the Company's Series A Convertible Perpetual Preferred Stock (the "**Preferred Stock**").

(tt) "**Private Placement Warrants**" has the meaning set forth in the Recitals.

(uu) The terms "**register**," "**registered**" and "**registration**" shall refer to a registration effected by preparing and filing a registration statement in compliance with the Securities Act and applicable rules and regulations thereunder, and the declaration or ordering of the effectiveness of such registration statement.

(vv) "**Registrable Securities**" shall mean (i) Company Common Stock issued in connection with the Closing to (1) the Initial Investors, as set forth on Exhibit A hereto, (2) the CPH Management Holders, including Company Common Stock issuable upon the exercise of stock options issued to such Holders at the Closing, as set forth on Exhibit B hereto, and (3) the Non-Management CPH Holders, as set forth on Exhibit C hereto, (ii) the Private Placement Warrants (including any Company Common Stock issued or issuable upon the exercise of any such Private Placement Warrants), (iii) Company Common Stock issued or issuable upon the exercise of any warrants of the Company (other than Private Placement Warrants) that are held by an Initial Investor (or its designee), and (iv) any other equity security of the Company issued or issuable with respect to any such shares of Company Common Stock by way of a stock dividend or stock split or in connection with a combination of shares, capitalization, merger, consolidation or reorganization; provided, however, that, as to any particular Registrable Security, such securities shall cease to be Registrable Securities when: (1) a Registration Statement with respect to the sale of such securities shall have become effective under the Securities Act and such securities shall have been sold, transferred, disposed of or exchanged in accordance with such Registration Statement; (2) such securities shall have been otherwise transferred, new certificates for such securities not bearing a legend restricting further transfer shall have been delivered by the Company and subsequent public distribution of such securities shall not require registration under the Securities Act; (3) such securities shall have ceased to be outstanding; (4) such securities have been sold pursuant to Rule 144 promulgated under the Securities Act without volume or manner of sale restrictions contained therein; or (5) such securities have been sold to, or through, a broker, dealer or underwriter in a public distribution or other public securities transaction; provided, further, that Registrable Securities shall include any shares of Company Common Stock acquired by a Holder after the date of this Agreement, that, based on the good faith determination of such Holder (after consultation with the Company's outside counsel), may not be resold publicly pursuant to the exemption from registration under Section 4(a)(1) of the Securities Act.

(ww) "**Registration Expenses**" shall mean all expenses incurred in effecting any registration pursuant to this Agreement, including, without limitation, all registration, qualification and filing fees (including fees with respect to filings required to be made with FINRA, and any fees of the securities exchange or automated quotation system on which the Company Common Stock is then listed or quoted), printing expenses, escrow fees, fees and disbursements of counsel for the Company, one (1) counsel for the Holders requesting to include their securities in such registration, to be selected by the Holders of a majority of the Registrable Securities to be included in such registration, blue sky fees and expenses (including reasonable fees and disbursements of counsels for the Holders in connection with blue sky compliance), and any fees and disbursements of accountants retained by the Company incident to or required by any such registration, but shall not include Selling Expenses or fees and disbursements of other counsel(s) for the Holders.

(xx) "**Representatives**" means, with respect to any person, any of such person's officers, directors, employees, agents, attorneys, accountants, actuaries, consultants, equity financing partners or financial advisors or other person associated with, or acting on behalf of, such person.

(yy) "**Resale Shelf Registration Statement**" has the meaning set forth in Section 2.1(a)(i).

(zz) "**Restricted Securities**" shall mean any Registrable Securities that are required to bear a legend restricting transfer.

(aaa) "**Rule 144**" shall mean Rule 144 as promulgated by the Commission under the Securities Act, as such Rule may be amended from time to time, or any similar successor rule that may be promulgated by the Commission.

(bbb) "**Rule 145**" shall mean Rule 145 as promulgated by the Commission under the Securities Act, as such Rule may be amended from time to time, or any similar successor rule that may be promulgated by the Commission

(ccc) "**Securities Act**" shall mean the Securities Act of 1933, as amended.

(ddd) "**Selling Expenses**" shall mean all underwriting discounts, selling commissions and stock transfer taxes applicable to the sale of Registrable Securities and fees and disbursements of counsel for any Holder (other than the fees and disbursements of counsel to the Holders included in Registration Expenses).

(eee) "**Sponsor**" has the meaning set forth in the Recitals.

(fff) "**Suspension Notice**" has the meaning set forth in Section 2.1(f).

(ggg) "**Three Director Range**" means the Peninsula Holder's beneficial ownership of more than twenty-five percent (25%) of the issued and outstanding shares of Company Common Stock as of the Closing.

(hhh) "**Transfer**" shall mean the (a) sale of, offer to sell, contract or agreement to sell, hypothecate, pledge, grant of any option to purchase or otherwise dispose of or agreement to dispose of, directly or indirectly, or establishment or increase of a put equivalent position or liquidation with respect to or decrease of a call equivalent position within the meaning of Section 16 of the Exchange Act, and the rules and regulations of the Commission promulgated thereunder with respect to, any security, or (b) entry into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of any security, whether any such transaction is to be settled by delivery of such securities, in cash or otherwise; provided, that a Transfer shall not be deemed to have been made by the Peninsula Holder solely as a result of direct or indirect transfers of equity interests in the Peninsula Holder so long as PGP Investors, LLC or its Affiliates retain sole voting control over the Peninsula Holder following any such direct or indirect transfer.

(iii) "**Two Director Range**" means the Peninsula Holder's beneficial ownership of more than fifteen percent (15%) but not more than twenty five percent (25%) of the issued and outstanding shares of Company Common Stock as of the Closing.

(jjj) "**Underwritten Takedown**" shall mean an underwritten public offering of Registrable Securities pursuant to an effective registration statement.

(kkk) "**Warrant Agreement**" has the meaning set forth in the Recitals.

SECTION 2
REGISTRATION RIGHTS

2.1 Registration

(a) ***Registration Requirements***. The Company shall, not later than ninety (90) days after the Closing, prepare and file with the Commission a registration statement on Form S-3, or if Form S-3 is not available, Form S-1 or such other registration statement form that is available to the Company, and take all such other actions as are necessary to ensure that there is an effective "shelf" registration statement containing a prospectus that remains current covering (and to qualify under required U.S. state securities laws, if any) the offer and sale of all Registrable Securities by the Holders on a continuous or delayed basis pursuant to Rule 415 of the Securities Act (the registration statement, the "**Resale Shelf Registration Statement**"). The Company shall use reasonable best efforts to cause the Commission to declare the Resale Shelf Registration Statement effective as soon as possible thereafter but in any event within one hundred fifty (150) days of the Closing, and to remain effective and the prospectus contained therein current until all Holders cease to hold Registrable Securities. The Resale Shelf Registration Statement shall provide for any method or combination of methods of resale of Registrable Securities legally available to, and requested by, the Holders, and shall comply with the relevant provisions of the Securities Act and Exchange Act. At the time the Resale Shelf Registration Statement is declared effective, each Investor shall be named as a selling securityholder in the Resale Shelf Registration Statement and the related prospectus in such a manner as to permit such Investor to deliver such prospectus to purchasers of Registrable Securities in accordance with applicable law. If the Resale Shelf Registration Statement is on Form S-3 and ceases to be effective, then the Company shall, as soon as practicable but in any event no later than the earlier of (i) if the Company has filed with the Commission all periodic reports required to be filed under the Exchange Act, sixty (60) days after the date on which the Resale Shelf Registration Statement ceased to be effective and (ii) if the Company has not filed with the Commission all periodic reports required to be filed under the Exchange Act, sixty (60) days after the date on which the Company files such reports with the Commission, prepare and file with the Commission a post-effective amendment to the Resale Shelf Registration Statement or new registration statement on an available form covering all the Registrable Securities, and shall use its reasonable best efforts to cause such registration statement to be declared effective by the Commission within seventy-five (75) days after such filing and to maintain the effectiveness of such registration statement until all Holders cease to hold Registrable Securities. Upon effectiveness, such registration statement shall constitute the "Resale Shelf Registration Statement" for all purposes under this Agreement.

(b) ***Request for Underwritten Takedowns***. The Holders that qualify as Initiating Holders will be entitled to an unlimited number of Underwritten Takedowns with respect to their Registrable Securities. If the Company shall receive from Initiating Holders a written request signed by such Initiating Holders that the Company effect any Underwritten Takedown with respect to all or a part of the Registrable Securities (such request shall state the number of shares of Registrable Securities to be disposed of by such Initiating Holders), the Company will:

(i) promptly, and in any event, within five (5) days after receiving such request, give written notice of the proposed Underwritten Takedown to all other Holders; and

(ii) as soon as practicable, use its reasonable best efforts to cause the Commission to declare such Underwritten Takedown effective within sixty (60) days thereafter (including, without limitation, filing post-effective amendments, one or more prospectus supplements, appropriate qualifications under any applicable blue sky or other state securities laws, and appropriate compliance with the Securities Act) and to permit and facilitate the sale and distribution in an underwritten offering of all or such portion of such Registrable Securities as are specified in such request, together with all or such portion of the Registrable Securities of any Holder or Holders joining in such request as are specified in a written request received by the Company within five (5) days after such written notice from the Company is mailed or delivered.

(c) ***Limitations on Underwritten Takedowns***. The Company shall not be obligated to effect any Underwritten Takedown pursuant to this Section 2.1:

(i) If the Initiating Holders, together with the holders of any other securities of the Company entitled to inclusion in such Underwritten Takedown, propose to sell Registrable Securities and such other securities (if any), the aggregate proceeds of which are anticipated to be less than $25,000,000; or

(ii) In any particular jurisdiction in which the Company would be required to execute a general consent to service of process in effecting such registration, qualification, or compliance, unless the Company is already subject to service in such jurisdiction and except as may be required by the Securities Act; or

(iii) Within one hundred twenty (120) days of the closing of any other Underwritten Takedown.

(d) ***Other Shares***. Any Underwritten Takedown may, subject to the provisions of Section 2.1(f), include Other Shares, and may include securities of the Company being sold for the account of the Company, *provided that*, any Other Shares or securities of the Company to be included in an Underwritten Takedown must be the subject of an effective shelf registration statement at the time the Company receives the request for an Underwritten Takedown from the Initiating Holders.

(e) ***Underwriting; Cutback***. If the Company shall request inclusion in any Underwritten Takedown of securities to be sold for its own account, or if other persons shall request inclusion of Other Shares in any Underwritten Takedown, the Initiating Holders shall, on behalf of all Holders, offer to include such securities in the underwriting and such offer shall be conditioned upon the participation of the Company or such other persons in such underwriting and the inclusion of the Company's and such other person's securities of the Company and their acceptance of the applicable provisions of this Section 2. The Company shall (together with all Holders and other persons proposing to distribute their securities through such underwriting) enter into an underwriting agreement in customary form with the representative of the underwriter or underwriters selected for such underwriting by the Company, which underwriters are reasonably acceptable to a majority-in-interest of the Initiating Holders. No Holder (or its permitted transferee or assignee under Section 2.11) shall be required to make any representations or warranties to, or agreements with, the Company or the underwriters other than representations, warranties or agreements regarding such Holder's (or such transferee's or assignee's) authority to enter into such underwriting agreement and to sell, and its ownership of, the securities being registered on its behalf, its intended method of distribution and any other representation required by law.

Notwithstanding any other provision of this Section 2.1, if the underwriters, in good faith, advise the Initiating Holders in writing that marketing factors require a limitation on the number of Registrable Securities to be underwritten, the number of Registrable Securities and Other Shares that may be so included shall be allocated as follows: (i) first, among Initiating Holders requesting to include Registrable Securities in such Underwritten Takedown based on the *pro rata* percentage of Registrable Securities requested by such Initiating Holders to be included in such Underwritten Takedown (determined based on the aggregate number of Registrable Securities requested to be included in such Underwritten Takedown by each such Initiating Holder); (ii) second, among all other Holders requesting to include Registrable Securities in such Underwritten Takedown based on the *pro rata* percentage of Registrable Securities requested by such Holders to be included in such Underwritten Takedown (determined based on the aggregate number of Registrable Securities requested to be included in such Underwritten Takedown by each such Holder); (iii) third, to any holder of Preferred Stock Conversion Shares that has requested the inclusion of its Preferred Stock Conversion Shares pursuant to the Preferred Stock Subscription Agreement; (iv) fourth, to the Company, which the Company may allocate, at its discretion, for its own account, or for the account of other Holders or employees of the Company, and (v) fifth, to any Other Selling Stockholders requesting to include Other Shares in such registration statement.

If a person who has requested inclusion in such Underwritten Takedown as provided above does not agree to the terms of any such underwriting, such person shall be excluded therefrom by written notice to the Company, the underwriter or the Initiating Holders, and the securities so excluded shall also be withdrawn from the Underwritten Takedown. If Registrable Securities are so withdrawn from the Underwritten Takedown and if the number of shares to be included in such Underwritten Takedown was previously reduced as a result of marketing factors pursuant to this Section 2.1(e), then the Company shall offer to all Holders who have retained rights to include securities in the Underwritten Takedown the right to include additional Registrable Securities in the offering in an aggregate amount equal to the number of shares so withdrawn, with such shares to be allocated among such Holders requesting additional inclusion, as set forth above.

(f) ***Deferral; Suspension***. Notwithstanding anything in this Agreement to the contrary, if the Company furnishes to the Holders a certificate (the "**Suspension Notice**") signed by an executive officer of the Company stating that, in the good faith judgment of the Company, effecting a registration (whether by the filing of a Registration Statement or by taking any other action) or the offering or disposition of Registrable Securities thereunder (including, for the avoidance of doubt, through an Underwritten Takedown) should be postponed or suspended because such registration, offering or disposal would (1) materially impede, delay or interfere with a pending material acquisition, corporate reorganization, or other similar transaction involving the Company; (2) require premature disclosure of material non-public information that the Company has a bona fide business purpose for preserving as confidential; or (3) render the Company unable to comply with requirements under the Securities Act or Exchange Act, then by delivery of the Suspension Notice to the Holders, the Company may so postpone effecting a registration or require the Holders to refrain from offering or disposing of Registrable Securities for a period of not more than thirty (30) days, and, provided further, that the Company shall not suspend usage of a registration statement in this manner more than twice in any twelve (12) month period or at any time within thirty (30) days of the end of the immediately preceding suspension period. The Company shall give written notice to the Holders as promptly as practicable following the date that such suspension is no longer necessary.

2.2 Peninsula Holder Underwritten Takedown. If the number of shares issued to the Peninsula Holder pursuant to the terms of the Rollover Agreement to which it is a party exceeds 882,353 shares (the "**Peninsula Threshold**"), then for a period of two years following the one hundred eighty (180)-day anniversary of the Closing, the Peninsula Holder shall have the right to cause the Company to effect one (1) Underwritten Takedown (a "**Peninsula Takedown**") (which, for the avoidance of doubt, will be on whatever registration statement form is then available to the Company to serve as the Resale Shelf Registration Statement, including a registration statement on Form S-1 to the extent that Form S-3 is not then available) in which the Peninsula Holder shall have the right to include the Peninsula Holder's Registrable Securities in excess of the Peninsula Threshold in such Underwritten Takedown as a matter of priority over all other Holders and the Company. If the Company receives a written request for a Peninsula Takedown, then, subject to Section 2.1(c)(ii) and (iii), the Company shall provide the notices and take the actions required by Section 2.1(b)(i) and (ii) of this Agreement. Without the prior written consent of the Peninsula Holder, no stockholder of the Company (other than the Peninsula Holder) may include securities in an offering pursuant to a Peninsula Takedown. If the underwriters, in good faith, advise the Peninsula Holder in writing that marketing factors require a limitation on the number of Registrable Securities to be underwritten, the number of Registrable Securities that may be so included in the Peninsula Takedown shall be allocated as follows: (i) first, to the Peninsula Holder to include Registrable Securities in such Underwritten Takedown in excess of the Peninsula Threshold; and (ii) second, to the Company, which the Company may allocate, at its discretion, for its own account or, with the prior written consent of the Peninsula Holder, for the account of other Holders who have requested to include their Registrable Securities in such offering; provided, that if (A) on the date on which the Peninsula Holder provides a written request for an initial Peninsula Takedown the Peninsula Holder beneficially owns at least 2,625,272 shares of Company Common Stock that were issued under its Rollover Agreement and (B) less than fifty percent (50%) of the Registrable Securities of the Peninsula Holder requested to be registered in the Peninsula Takedown are included in such initial Underwritten Takedown effected under this Section 2.2, then such Underwritten Takedown shall not be considered a Peninsula Takedown for purposes of this Agreement; provided further that in no event shall the Company (1) be required to effect a Peninsula Takedown within six (6) months after the closing date of any other Underwritten Takedown effected under this Section 2.2, and (2) be required to effect more than two (2) Underwritten Takedowns under this Section 2.2. In connection with any Peninsula Takedown, Argand Investor and its Affiliates shall, at the Peninsula Holder's written request, sign a customary lockup agreement whereby Argand Investor and its Affiliates will agree to refrain from effecting any Transfer of Company Common Stock or other securities of the Company until sixty (60) days after the conclusion of the Peninsula Takedown. The Peninsula Holder shall have the right to terminate or withdraw its request for an Underwritten Takedown (and in such case shall not be deemed to have exercised its right to have caused the Company to effect a Peninsula Takedown) at any time prior to the effectiveness of such registration.

2.3 Company Registration

(a) ***Company Registration/Underwritten Offering***. If the Company shall determine to (1) register any of its securities either for its own account or the account of a security holder or holders (or a combination of the foregoing) during a period in which a Resale Shelf Registration Statement covering a Holder's Registrable Securities is not then effective, other than: a registration pursuant to Sections 2.1 or 2.2; a registration relating to the shares of Company Common Stock underlying the Public Warrants; a registration relating solely to employee benefit plans, a registration relating to the offer and sale of non-convertible debt securities, a registration relating to a corporate reorganization or other Rule 145 transaction; or a registration on any registration form that does not permit secondary sales, or (2) effect an underwritten public offering of securities, either for its own account or the account of a security holder or holders (or a combination of the foregoing), the Company will:

(i) promptly give written notice (in any event not later than twenty (20) days prior to the filing of the registration statement or preliminary prospectus to which such offering relates) of the proposed registration or offering, as applicable, to all Holders; and

(ii) include in such registration or offering, as applicable, (and any related qualification under blue sky laws or other compliance), except as set forth in Section 2.2(b) below, and in any underwriting involved therein, all of such Registrable Securities as are specified in a written request or requests made by any Holder or Holders received by the Company within ten (10) days after receipt of such written notice from the Company. Such written request may specify all or a part of a Holder's Registrable Securities.

(b) ***Underwriting; Cutback***. If the registration or offering of which the Company gives notice is for an underwritten public offering, the Company shall so advise the Holders (and include the names of the proposed underwriters) as a part of the written notice given pursuant to Section 2.2(a)(i). All Holders proposing to distribute their securities through such underwriting shall (together with the Company and the Other Selling Stockholders with registration rights to participate therein) enter into an underwriting agreement in customary form with the representative of the underwriter or underwriters selected by the Company. No Holder (or its permitted transferee or assignee under Section 2.11) shall be required to make any representations or warranties to, or agreements with, the Company or the underwriters other than representations, warranties or agreements regarding such Holder's (or such transferee's or assignee's) authority to enter into such underwriting agreement and to sell, and its ownership of, the securities being registered on its behalf, its intended method of distribution and any other representation required by law.

Notwithstanding any other provision of this Section 2.2, if the underwriters in good faith advise the Company and the Holders of Registrable Securities participating in the offering in writing that marketing factors require a limitation on the number of shares to be underwritten, the number of Registrable Securities to be included in the registration and underwriting shall be reduced, subject to the limitations set forth below. The Company shall so advise all holders of securities requesting registration, and the number of shares entitled to be included in the registration and underwriting shall be allocated (1) if the underwritten offering is for the Company's account, (m) first, to the Company; (n) second, to the Holders requesting to include Registrable Securities in such offering based on the *pro rata* percentage of Registrable Securities requested to be included by such Holders; (o) third, to any holder of Preferred Stock Conversion Shares that has requested the inclusion of its Preferred Stock Conversion Shares pursuant to the Preferred Stock Subscription Agreement; and (iv) fourth, to the Other Selling Stockholders, if any, requesting to include Other Shares in such underwritten offering and (2) if the underwritten offering is for the account of Other Selling Stockholders, then (x) first, to the Other Selling Stockholders, (y) second, to the Holders requesting to include Registrable Securities in such offering based on the *pro rata* percentage of Registrable Securities requested to be included by such Holders; and (z) third, to the Company.

If a person who has requested inclusion in such registration as provided above does not agree to the terms of any such underwriting, such person shall be excluded therefrom by written notice to the Company and the underwriter. Any Registrable Securities or Other Shares excluded or withdrawn from such underwriting shall be withdrawn from such registration. Notwithstanding anything to the contrary, the Company shall be responsible for the Registration Expenses prior to any such withdrawal.

(c) ***Right to Terminate Registration***. The Company shall have the right to terminate or withdraw any registration initiated by it under this Section 2.2 prior to the effectiveness of such registration whether or not any Holder has elected to include securities in such registration.

2.4 Expenses of Registration. All Registration Expenses incurred in connection with registrations pursuant to this Section 2 shall be borne by the Company. All Selling Expenses relating to securities registered on behalf of the Holders and the holders of any Other Shares shall be borne by the Holders and any holders of any Other Shares included in such registration *pro rata* among each other on the basis of the number of Registrable Securities and Other Shares, respectively, registered on their behalf.

2.5 Registration Procedures. In the case of each registration of Registrable Securities effected by the Company pursuant to Section 2, the Company will keep each Holder advised in writing as to the initiation of each registration and as to the completion thereof. At its sole expense, the Company will:

(a) Prepare each registration statement, including all exhibits and financial statements required under the Securities Act to be filed therewith, and before filing such registration statement, any prospectus or any amendments or supplements thereto, furnish to the Holders of the Registrable Securities copies of all documents prepared to be filed, which documents shall be subject to the review of such Holders and their respective counsel;

(b) As soon as reasonably practicable file with the Commission, the registration statement relating to the Registrable Securities, including all exhibits and financial statements required by the Commission to be filed therewith, and use its reasonable best efforts to cause such registration statement(s) to become effective under the Securities Act as soon as practicable;

(c) Prepare and file with the Commission such amendments, post-effective amendments and supplements to such registration statement and the prospectus used in connection with such registration statement as may be requested by the Holders or any underwriter of Registrable Securities or as may be necessary to keep such registration statement effective and to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement;

(d) Notify the participating Holders of Registrable Securities, and confirm such notice in writing and provide copies of the relevant documents, as soon as reasonably practicable after notice thereof is received by the Company (a) when the applicable registration statement or any amendment thereto has been filed or becomes effective, and when the applicable prospectus or any amendment or supplement to such prospectus has been filed, (b) of any written comments by the Commission or any request by the Commission or any other federal or state governmental authority for amendments or supplements to such registration statement, prospectus or for additional information (whether before or after the effective date of the registration statement), (c) of the issuance by the Commission of any stop order suspending the effectiveness of such registration statement or any order by the Commission or any other regulatory authority preventing or suspending the use of any preliminary or final prospectus or the initiation or threatening of any proceedings for such purposes and (d) of the receipt by the Company of any notification with respect to the suspension of any Registrable Securities for offering or sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose;

(e) Furnish such number of prospectuses, including any preliminary prospectuses, and other documents incident thereto, including any amendment of or supplement to the prospectus, as a Holder (or its counsel) from time to time may reasonably request;

(f) Register and qualify the securities covered by such registration statement under such other securities or Blue Sky laws of such jurisdictions as shall be reasonably requested by the Holders; *provided*, that the Company shall not be required in connection therewith or as a condition thereto to qualify to do business or to file a general consent to service of process in any such states or jurisdictions where it would not otherwise be required to qualify or when it is not then otherwise subject to service of process;

(g) Notify each seller of Registrable Securities covered by such registration statement at any time when a prospectus relating thereto is required to be delivered under the Securities Act of the happening of any event as a result of which the prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading or incomplete in the light of the circumstances under which they were made, and following such notification promptly prepare and file a post-effective amendment to such registration statement or a supplement to the related prospectus or any document incorporated therein by reference, and file any other required document that would be incorporated by reference into such registration statement and prospectus, so that such registration statement does not contain 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 that such prospectus does not contain 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, in the light of the circumstances under which they were made, not misleading, and, in the case of a post-effective amendment to a registration statement, use reasonable best efforts to cause it to be declared effective as promptly as is reasonably practicable, and give to the Holders listed as selling security holders in such prospectus a written notice of such amendment or supplement, and, upon receipt of such notice, each such Holder agrees not to sell any Registrable Securities pursuant to such registration statement until such Holder's receipt of copies of the supplemented or amended prospectus or until it receives further written notice from the Company that such sales may re-commence;

(h) Use its reasonable best efforts to prevent, or obtain the withdrawal of, any order suspending the effectiveness of any registration statement (and promptly notify in writing each Holder covered by such registration statement of the withdrawal of any such order);

(i) Provide a transfer agent or warrant agent, as applicable, and registrar for all Registrable Securities registered pursuant to such registration statement and a CUSIP number for all such Registrable Securities, in each case not later than the effective date of such registration;

(j) if requested, cooperate with the selling Holders of Registrable Securities to facilitate the timely preparation and delivery of certificates or establishment of book entry notations representing Registrable Securities to be sold and not bearing any restrictive legends, including without limitation, procuring and delivering any opinions of counsel, certificates or agreements as may be necessary to cause such Registrable Securities to be so delivered;

(k) Cause all such Registrable Securities registered hereunder to be listed on each securities exchange or automated quotation system on which similar securities issued by the Company are then listed;

(l) In connection with any underwritten offering pursuant to a registration statement filed pursuant to Section 2.1 or 2.2, enter into and perform its obligations under an underwriting agreement in form reasonably necessary to effect the offer and sale of the Registrable Securities subject to such underwriting, *provided*, that such underwriting agreement contains reasonable and customary provisions;

(m) Furnish to each Holder of Registrable Securities included in such registration statement a signed counterpart, addressed to such Holder, of (1) any opinion of counsel to the Company delivered to any underwriter dated the effective date of the registration statement or, in the event of an underwritten offering, the date of the closing under the applicable underwriting agreement, in customary form, scope, and substance, at a minimum to the effect that the registration statement has been declared effective and that no stop order is in effect, which counsel and opinions shall be reasonably satisfactory to the Holders and their respective counsel and (2) any comfort letter from the Company's independent public accountants delivered to any underwriter in customary form and covering such matters of the type customarily covered by comfort letters as the managing underwriter or underwriters reasonably request. In the event no legal opinion is delivered to any underwriter, the Company shall furnish to each Holder of Registrable Securities included in such registration statement, at any time that such Holder elects to use a prospectus, an opinion of counsel to the Company to the effect that the registration statement containing such prospectus has been declared effective and that no stop order is in effect and any other matters as the Holders or underwriter may reasonably request and as are customarily included;

(n) Promptly identify to the selling Holders, any underwriter(s) participating in any disposition pursuant to such registration statement, and any attorney or accountant or other agent retained by any such underwriter or selected by the selling Holders, make available for inspection by the seller Holders all financial and other records, pertinent corporate documents, and properties of the Company, and cause the Company's officers, directors, employees, and independent accountants to supply all information reasonably requested by any such seller, underwriter, attorney, accountant, or agent, in each case, as necessary or advisable to verify the accuracy of the information in such registration statement and to conduct appropriate due diligence in connection therewith;

(o) Fully cooperate, and cause each of its principal executive officer, principal financial officer, principal accounting officer, and all other officers and members of the management to fully cooperate in any offering of Registrable Securities hereunder, which cooperation shall include, without limitation, assisting with the preparation of any registration statement or amendment thereto with respect to such offering and all other offering materials and related documents, and participation in meetings with underwriters, attorneys, accountants and potential stockholders;

(p) Otherwise use its reasonable best efforts to comply with all applicable rules and regulations of the Commission and make available to its stockholders an earnings statement (in a form that satisfies the provisions of Section 11(a) of the Securities Act and Rule 158 under the Securities Act or any successor rule thereto) no later than thirty (30) days after the end of the 12-month period beginning with the first day of the Company's first full fiscal quarter after the effective date of such registration statement, which earnings statement shall cover said 12-month period, and which requirement will be deemed to be satisfied if the Company timely files complete and accurate information on Forms 10-K, 10-Q and 8-K under the Exchange Act and otherwise complies with Rule 158 under the Securities Act or any successor rule thereto;

(q) Cooperate with each Holder and each underwriter or agent, if any, participating in the disposition of such Registrable Securities and their respective counsel in connection with any filings required to be made with the Financial Industry Regulatory Authority, Inc. ("**FINRA**"), and use its reasonable best efforts to make or cause to be made any filings required to be made by an issuer with FINRA in connection with the filing of any registration statement;

(r) In the event of any underwritten public offering of Registrable Securities, cause senior executive officers of the Company to participate in customary "road show" presentations that may be reasonably requested by the managing underwriter in any such underwritten offering and otherwise to facilitate, cooperate with, and participate in each proposed offering contemplated herein and customary selling efforts related thereto;

(s) Take all reasonable action to ensure that any "free writing prospectus" (as defined in the Securities Act) utilized in connection with any registration covered by Section 2.1 complies in all material respects with the Securities Act, is filed in accordance with the Securities Act to the extent required thereby, is retained in accordance with the Securities Act to the extent required thereby and, when taken together with the related prospectus, will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; and

(t) Take all such other reasonable actions as are necessary or advisable in order to expedite or facilitate the disposition of such Registrable Securities.

2.6 Price and Underwriting Discounts. In the case of an underwritten offering requested by Holders pursuant to Section 2.1, the managing underwriters (which shall be reasonably acceptable to the Company), size, manner of sale, plan of distribution, size, manner of sale, plan of distribution, price, underwriting discount and other financial terms of the related underwriting agreement for the Registrable Securities shall be determined by either (i) a majority-in-interest of the Holders whose Registrable Securities are being offered in such offering (the "**Majority Holders**"); or (ii) such other means as is determined by the Majority Holders, in their sole discretion. In the case of a Peninsula Takedown , the managing underwriters (which shall be reasonably acceptable to the Company), size, manner of sale, plan of distribution, price, underwriting discount and other financial terms of the related underwriting agreement shall be determined by the Peninsula Holder. In the case of any Underwritten Offering pursuant to Section 2.3, such price, discount and other terms shall be determined by the Company, subject to the right of the Holders to withdraw their request to participate in the registration pursuant to Section 2.3 after being advised of such price, discount and other terms.

2.7 Indemnification

(a) To the extent permitted by law, the Company will indemnify and hold harmless each Holder, and each shareholder, member, limited or general partner thereof, each shareholder, member, limited or general partner of each such shareholder, member, limited or general partner, each of their respective Affiliates, officers, directors, shareholders, employees, advisors, and agents and each Person who controls (within the meaning of Section 15 of the Securities Act) such Persons and each of their respective Representatives, and each underwriter, if any, and each person or entity who controls within the meaning of Section 15 of the Securities Act any underwriter, against all expenses, claims, judgments, suits, costs, penalties, losses, damages and liabilities (or actions, proceedings or settlements in respect thereof) arising out of or based on: (i) any untrue statement (or alleged untrue statement) of a material fact contained or incorporated by reference in any prospectus, offering circular or other document (including any related registration statement, notification or the like) incident to any such registration, qualification or compliance, (ii) any omission (or alleged omission) to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, or (iii) any violation (or alleged violation) by the Company of the Securities Act, any state securities laws or any rule or regulation thereunder applicable to the Company and relating to action or inaction required of the Company in connection with any offering covered by such registration, qualification or compliance, and the Company will reimburse each Holder, and each shareholder, member, limited or general partner thereof, each shareholder, member, limited or general partner of each such shareholder, member, limited or general partner, each of their respective Affiliates, officers, directors, shareholders, employees, advisors, and agents and each Person who controls such persons and each of their respective Representatives, and each underwriter, if any, and each person or entity who controls any underwriter, for any legal and any other expenses reasonably incurred in connection with investigating and defending or settling any such claim, judgment, suit, penalty, loss, damage, liability or action; *provided* that the Company will not be liable in any such case to the extent that any such claim, judgment, suit, penalty loss, damage, liability, or action arises out of or is based on any untrue statement or omission based upon written information furnished to the Company by such Holder, any of such Holder's Representatives, any person or entity controlling such Holder, such underwriter or any person or entity who controls any such underwriter, and stated to be specifically for use therein; *provided*, *further* that, the indemnity agreement contained in this Section 2.6(a) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the consent of the Company (which consent shall not be unreasonably withheld). This indemnity shall be in addition to any liability the Company may otherwise have. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Holder or any indemnified party and shall survive the transfer of such securities by such Holder.

(b) To the extent permitted by law, each selling Holder, severally and not jointly, will, if Registrable Securities held by such Holder are included in the securities as to which such registration, qualification or compliance is being effected, indemnify and hold harmless the Company, each of its directors, officers, employees, partners, legal counsel and accountants and each underwriter, if any, of the Company's securities covered by such a registration statement, each person or entity who controls the Company or such underwriter within the meaning of Section 15 of the Securities Act, each other such Holder, and each of their officers, directors and partners, and each person or entity controlling each other such Holder, and each of their respective Representatives, against all claims, judgments, penalties losses, damages and liabilities (or actions in respect thereof) arising out of or based on: (i) any untrue statement (or alleged untrue statement) of a material fact contained or incorporated by reference in any prospectus, offering circular or other document (including any related registration statement, notification, or the like) incident to any such registration, qualification or compliance made in reliance upon and in conformity with information furnished in writing by or on behalf of such selling Holder expressly for use in connection with such registration, (ii) any omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case made in reliance upon and in conformity with information furnished in writing by or on behalf of such selling Holder expressly for use in connection with such registration, or (iii) any violation (or alleged violation) by the Company of the Securities Act, any state securities laws or any rule or regulation thereunder applicable to the Holder and relating to action or inaction required of the Holder in connection with any offering covered by such registration, qualification or compliance, and will reimburse the Company and such Holders, directors, officers, partners, legal counsel and accountants, persons, underwriters, or control persons for any legal or any other expenses reasonably incurred in connection with investigating or defending any such claim, loss, damage, liability or action, in each case to the extent, but only to the extent, that such untrue statement or omission (i) is made in such registration statement, prospectus, offering circular or other document in reliance upon and in conformity with written information furnished to the Company by such Holder and stated to be specifically for use therein and (ii) has not been corrected in a subsequent writing prior to or concurrently with the sale of the Registrable Securities to the person asserting the claim; *provided*, *however*, that the obligations of such Holder hereunder shall not apply to amounts paid in settlement of any such claims, losses, damages or liabilities (or actions in respect thereof) if such settlement is effected without the consent of such Holder (which consent shall not be unreasonably withheld); and *provided* that in no event shall any indemnity under this Section 2.7 exceed the net proceeds from the offering received by such Holder, except in the case of fraud or willful misconduct by such Holder.

(c) Each party entitled to indemnification under this Section 2.7 (the "**Indemnified Party**") shall (i) give notice to the party required to provide indemnification (the "**Indemnifying Party**") promptly after such Indemnified Party has actual knowledge of any claim as to which indemnity may be sought (*provided*, that any delay or failure to so notify the indemnifying party shall relieve the Indemnifying Party of its obligations hereunder only to the extent, if at all, that it is actually and materially prejudiced by reason of such delay or failure), and (ii) permit the Indemnifying Party to assume the defense of such claim or any litigation resulting therefrom; *provided* that counsel for the Indemnifying Party, who shall conduct the defense of such claim or any litigation resulting therefrom, shall be approved by the Indemnified Party (whose approval shall not be unreasonably withheld), and the Indemnified Party may participate in such defense at such party's expense unless (w) the Indemnifying Party has agreed in writing to pay such fees or expenses, (x) the Indemnifying Party shall have failed to assume the defense of such claim within a reasonable time after receipt of notice of such claim from the Indemnified Party hereunder and employ counsel reasonably satisfactory to the Indemnified Party, (y) the Indemnified Party has reasonably concluded (based upon advice of its counsel) that there may be legal defenses available to it or other indemnified parties that are different from or in addition to those available to the Indemnifying Party, or (z) in the reasonable judgment of any such person (based upon advice of its counsel) a conflict of interest may exist between such person and the Indemnifying Party with respect to such claims (in which case, if the person notifies the Indemnifying Party in writing that such Person elects to employ separate counsel at the expense of the Indemnifying Party, the Indemnifying Party shall not have the right to assume the defense of such claim on behalf of such person). No Indemnifying Party, in the defense of any such claim or litigation, shall, except with the consent of each Indemnified Party, consent to entry of any judgment or enter into any settlement that does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Party of a release from all liability in respect to such claim or litigation. Each Indemnified Party shall furnish such information regarding itself or the claim in question as an Indemnifying Party may reasonably request in writing and as shall be reasonably required in connection with defense of such claim and litigation resulting therefrom.

(d) If the indemnification provided for in this Section 2.7 is held by a court of competent jurisdiction to be unavailable to an Indemnified Party with respect to any loss, liability, claim, damage, or expense referred to herein, then the Indemnifying Party, in lieu of indemnifying such Indemnified Party hereunder, shall contribute to the amount paid or payable by such Indemnified Party as a result of such loss, liability, claim, damage, or expense in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party on the one hand and of the Indemnified Party on the other in connection with the statements or omissions that resulted in such loss, liability, claim, damage, or expense as well as any other relevant equitable considerations. The relative fault of the Indemnifying Party and of the Indemnified Party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission to state a material fact relates to information supplied by the Indemnifying Party or by the Indemnified Party and the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent such statement or omission. No person or entity will be required under this Section 2.7(d) to contribute any amount in excess of the net proceeds from the offering received by such person or entity, except in the case of fraud or willful misconduct by such person or entity. No person or entity guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) will be entitled to contribution from any person or entity who was not guilty of such fraudulent misrepresentation.

The obligations of the Company and Holders under this Section 2.7 shall survive the completion of any offering of Registrable Securities in a registration under this Section 2.7 and otherwise shall survive the termination of this Agreement until the expiration of the applicable period of the statute of limitations.

2.8 Information by Holder. Each Holder of Registrable Securities shall furnish to the Company such information regarding such Holder and the distribution proposed by such Holder as the Company may reasonably request in writing and as shall be reasonably required in connection with any registration, qualification, or compliance referred to in this Section 2.

2.9 Rule 144 Reporting. With a view to making available the benefits of certain rules and regulations of the Commission that may permit the sale of the Restricted Securities to the public without registration, the Company agrees to:

(a) Make and keep adequate current public information with respect to the Company available in accordance with Rule 144 under the Securities Act;

(b) File with the Commission in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act; and

(c) So long as a Holder owns any Restricted Securities, furnish to the Holder forthwith upon written request a written statement by the Company as to its compliance with the reporting requirements of Rule 144 and of the Securities Act and the Exchange Act, or that it qualifies as registrant whose securities may be resold pursuant to Form S-3 (at any time after the Company so qualifies), a copy of the most recent annual or quarterly report of the Company, and such other reports and documents so filed as a Holder may reasonably request in availing itself of any rule or regulation of the Commission allowing a Holder to sell any such securities without registration. The Company further covenants that it shall take such further action as any Holder may reasonably request to enable such Holder to sell from time to time shares of Company Common Stock held by such Holder without registration under the Securities Act within the limitation of the exemptions provided by Rule 144, including providing any legal opinions and cooperating with the Holders to cause the transfer agent to remove any restrictive legend on certificates evidencing Registrable Securities). This Section 2.9 shall survive the termination of this Agreement so long as any Holder continues to hold Registrable Securities.

2.10 No Inconsistent Agreements. The Company has not entered, as of the date hereof, nor shall the Company, on or after the date of this Agreement, enter into any agreement with respect to its securities, that would have the effect of impairing the rights granted to the Holders of Registrable Securities or otherwise conflict with the provisions hereof.

2.11 Transfer or Assignment of Rights. This Agreement and the rights, duties and obligations of the Company hereunder may not be assigned or delegated by the Company in whole or in part. The rights granted to a Holder by the Company under this Section 2 may be transferred or assigned (but only with all related obligations) by a Holder only to a transferee of Registrable Securities that is a transferee or assignee of not less than 10,000 Registrable Securities (as presently constituted and subject to subsequent adjustments for share splits, share dividends, reverse share splits and the like); *provided,* that (x) such transfer or assignment of Registrable Securities is effected in accordance with applicable securities laws, (y) the Company is, within a reasonable time after such transfer, furnished with written notice of the name and address of such transferee and the Registrable Securities with respect to which such rights are being transferred and (z) such transferee agrees in a written instrument delivered to the Company to be bound by and subject to the terms and conditions of this Agreement.

SECTION 3
LOCK-UP

3.1 Initial Investor Lock-up

(a) Each Initial Investor agrees not to Transfer a number of shares of Company Common Stock equal to the number of Class A Common Stock issued upon conversion of such Initial Investor's Founder Shares until the earlier of (A) one year after the Closing or (B) subsequent to the Closing, (x) if the last sale price of the Company Common Stock equals or exceeds $12.00 per share (as adjusted for stock splits, stock dividends, reorganizations, recapitalizations and the like) for any 20 trading days within any 30-trading day period commencing at least 150 days after the Closing or (y) following the Closing, the date on which the Company completes a liquidation, merger, capital stock exchange, reorganization or other similar transaction that results in all of the Company's stockholders having the right to exchange their shares of Company Common Stock for cash, securities or other property.

(b) Each Initial Investor agrees that it, he or shall not Transfer any Private Placement Warrants (or shares of Company Common Stock issued or issuable upon the exercise of the Private Placement Warrants) until 30 days after the Closing.

3.2 CPH Management Lock-up. Each CPH Management Holder agrees not to Transfer any shares of Company Common Stock acquired by such CPH Management Holder in connection with the Business Combination for a period commencing on the date of Closing and ending on the date that is (a) the first anniversary of the Closing with respect to one-third (1/3) of such CPH Management Holder's Registrable Securities held as of the date of Closing; (b) the second anniversary of the Closing with respect to one-third (1/3) of such CPH Management Holder's Registrable Securities held as of the date of Closing; and (c) the third anniversary of the Closing with respect to one-third (1/3) of such CPH Management Holder's Registrable Securities held as of the date of Closing. For the avoidance of doubt, the exercise of any stock option by any CPH Management Holder shall in no way modify or extend the dates set forth in clauses (a), (b) and (c) of the previous sentence.

3.3 Non-Management CPH Lock-up. Each Non-Management CPH Holder agrees not to Transfer any shares of Company Common Stock acquired by such Non-Management CPH Holder in connection with the Business Combination for a period commencing on the date of Closing and ending on the date that is one hundred and eighty (180) days after the Closing.

3.4 Argand Investor Lock-up. The Argand Investor agrees not to Transfer any shares of Company Common Stock acquired by the Argand Investor in exchange for the Argand PIPE Shares pursuant to the Merger Agreement for a period commencing on the date of Closing and ending on (a) if the number of shares issued to the Peninsula Holder pursuant to the terms of the Rollover Agreement to which it is a party does not exceed the Peninsula Threshold, the date that is one hundred and eighty (180) days after the Closing, or (b) if the number of shares issued to the Peninsula Holder pursuant to the terms of the Rollover Agreement to which it is a party exceeds the Peninsula Threshold, the date that is one year after the Closing.

3.5 Permitted Transfers. Notwithstanding the provisions set forth in Sections 3.1, 3.2, 3.3 and 3.4, nothing in this Agreement shall prohibit Transfers with the prior written consent of the Board (with any director who has been designated to serve on the Board by or who is an Affiliate of the requesting party abstaining from such vote) or Transfers (a) to the Company's officers or directors, any Affiliate or family member of any of the Company's officers or directors or any Affiliate of the Holder transferring such securities or to any member(s) of such Holder's family or any of their Affiliates (including any investment fund of which the Holder or its Affiliate serves as the general partner, managing member or discretionary manager or advisor); (b) in the case of an individual, as a gift to such person's immediate family or to a trust, the beneficiary of which is a member of such person's immediate family, an Affiliate of such person or to a charitable organization; (c) in the case of an individual, by virtue of laws of descent and distribution upon death of such person; (d) in the case of an individual, pursuant to a qualified domestic relations order; (e) by virtue of the laws of the State of Delaware or the organizational documents of the Holder transferring such securities upon dissolution of such Holder; (f) pursuant to an order of a court, regulatory agency or other governmental authority; (g) solely to tender into a tender or exchange offer for a majority of the Company's voting securities commenced by a third party; or (h) in the event that the Company consummates a liquidation, merger, capital stock exchange or other similar transaction that results in all of the Company's stockholders having the right to exchange their shares of Company Common Stock for cash, securities or other property; provided, however, that in the case of clauses (a) through (e), these permitted transferees must enter into a written agreement with the Company agreeing to be bound by the transfer restrictions herein.

3.6 Removal of Legends. If any shares of Company Common Stock are certificated, upon the request of a holder thereof following the expiration of the restrictions pursuant to Sections 3.1, 3.2, 3.3 or 3.4 (as applicable), the holder thereof shall be entitled to promptly receive from the Company new certificates for a like number of shares of Company Common Stock not bearing any legend with respect to transfer restrictions pursuant to this Agreement.

SECTION 4
BOARD REPRESENTATION

4.1 Initial Director Designees

(a) For so long as the Peninsula Holder has the right to nominate members to the Board pursuant to Section 4.2, the Company shall, to the fullest extent permitted by applicable law, cause the Board (whether acting through a nominating committee of the Board or otherwise) to (A) nominate the Peninsula Nominees(s) and include the Peninsula Nominee(s) in any slate of nominees recommended to the Company's stockholders for election to the Board and include such Peninsula Nominee(s) in the Company's preliminary and definitive proxy statements filed with the Commission for any applicable annual meeting of stockholders at which stockholders of the Company will vote on the election of directors to the Board (or any consent in lieu of a meeting), (B) recommend that the Company's stockholders vote in favor of the Peninsula Nominee(s) or Peninsula Director(s), as applicable, in all subsequent stockholder meetings at which such Peninsula Nominee(s) or Peninsula Director(s), as applicable, stand for election or reelection to the Board, and (C) support the Peninsula Nominee(s) or Peninsula Director(s), as applicable, in a manner no less favorably than the manner in which the Company supports its other director nominees. For any meeting (or consent in lieu of meeting) of the Company's stockholders for the election of members of the Board, the Board (whether acting through a nominating committee of the Board or otherwise) shall not nominate, in the aggregate, a number of nominees greater than the number of members of the Board.

(b) For so long as the Peninsula Holder has the right to nominate members of the Board pursuant to Section 4.2 if a vacancy on the Board is created as a result of a Peninsula Director's death, disability, resignation (other than pursuant to Section 4.5 or removal, then the Peninsula Holder shall have the right to designate by written notice to the Company an individual (a "**Peninsula Director Replacement**") to fill such vacancy, which individual shall meet the conditions set forth in Section 4.4. The Company shall take all actions necessary to cause the Peninsula Director Replacement to fill such resulting vacancy and such individual shall be deemed a Peninsula Director and a Peninsula Nominee. In the event that the Peninsula Holder is entitled to appoint at least two (2) Peninsula Directors, the Board shall, at the written request of the Peninsula Holder, appoint one (1) Peninsula Director to serve on any committee or committees of the Board, subject to such Peninsula Director satisfying qualification and independence rules and regulations of the applicable stock exchange on which the Company Common Stock is listed or the Commission as in effect at the time of determination with respect to any such committees. Each Peninsula Director shall be entitled to receive compensation in his or her capacity as a director consistent with the compensation received in such capacity by other non-employee members of the Board, including any fees and equity awards, and reimbursement for reasonable out-of-pocket expenses incurred in attending meetings of the Board and its committees.

4.2 Director Nomination Rights. To the extent permitted by applicable law and the rules of the principal stock exchange or market on which the Company Common Stock is then traded or listed, commencing on the date of the Closing and ending on the date that the Company's obligations under this Section 4.2 terminate in accordance with this Section 4.2 (the "**Peninsula Board Right Period**"):

(a) If the Peninsula Holder's beneficial ownership of Company Common Stock is within the Three Director Range, then the Company shall cause the Board to nominate for election to the Board and shall recommend and support such nominations, in the manner provided in Section 4.1(a), such number of Peninsula Nominees as is required to maintain the continuous service of three (3) Peninsula Directors on the Board. The Company's obligations under this Section 4.2(a) shall terminate on the first date on which the Peninsula Holder's beneficial ownership of issued and outstanding Company Common Stock is no longer within the Three Director Range, following which the Peninsula Holder will cause one (1) Peninsula Director to resign as a member of the Board within five (5) Business Days after receiving a written request from the Company.

(b) If the Peninsula Holder's beneficial ownership of Company Common Stock is within Two Director Range, then the Company shall cause the Board to nominate for election to the Board and shall recommend and support such nominations, in the manner provided in Section 4.1(a), such number of Peninsula Nominees as is required to maintain the continuous service of two (2) Peninsula Directors on the Board. The Company's obligations under this Section 4.2(b) shall terminate automatically on the first date on which the Peninsula Holder's beneficial ownership of Company Common Stock is no longer within the Two Director Range, following which the Peninsula Holder will cause one (1) Peninsula Director to resign as a member of the Board within five (5) Business Days after receiving a written request from the Company.

(c) If the Peninsula Holder's beneficial ownership of Company Common Stock is within One Director Range, then the Company shall cause the Board to nominate for election to the Board and shall recommend and support such nomination, in the manner provided in Section 4.1(a), such number of Peninsula Nominees as is required to maintain the continuous service of one (1) Peninsula Director on the Board. The Company's obligations under this Section 4.2(c) shall terminate on the first date on which the Peninsula Holder's beneficial ownership of Company Common Stock is no longer within the One Director Range, following which the Peninsula Holder will cause one Peninsula Director to resign as a member of the Board within five (5) Business Days after receiving a written request from the Company.

(d) Any Company Common Stock (or securities convertible, exercisable or exchangeable for shares of Company Common Stock) acquired by the Peninsula Holder or its Affiliates after the date of this Agreement shall be excluded from the number of shares of Company Common Stock deemed beneficially owned by the Peninsula Holder for purposes of this Section 4.2.

4.3 Exceptions. Notwithstanding anything herein to the contrary, the Peninsula Holder shall not have any rights to nominate an individual for election to the Board pursuant to this Section 4, and shall cause any such individuals previously so nominated by Peninsula Holder to resign as a member of the Board within five (5) Business Days after receiving a written request from the Company if the Peninsula Holder or any of its Affiliates has, at any time after the date of this Agreement, (a) an employee, member or partner (other than any third party limited partner who is an investor in the Peninsula Holder) of the Peninsula Holder (excluding any Portfolio Company) or any of its Affiliates (other than a Portfolio Company) that is a director or executive officer of a Competitor of the Company (each such person, a "Competitor Director"), (b) a Portfolio Company that is a Competitor of the Company or (c) if the Peninsula Board Right Period has ended; provided, that the foregoing restrictions and requirements shall be applied in an equivalent manner to all other non-employee Board members (including any Board member that is an officer, director, employee or manager of the Sponsor or its Affiliate); provided, further, that the Peninsula Holder's right to nominate individuals to the Board pursuant to this Article 4 shall not be impaired, restricted or rescinded in any manner, if prior to or following the appointment of any Competitor Director, the Peninsula Holder obtains the written consent of the Board (with the Peninsula Directors abstaining) (such consent not to be unreasonably withheld, conditioned or delayed) to such Peninsula Holder employee, member or partner (other than any third party limited partner who is an investor in Peninsula) serving as a Competitor Director.

4.4 Peninsula Nominee Qualifications. As a condition to any Peninsula Nominee's appointment or nomination to the Board pursuant to this Agreement, such Peninsula Nominee shall agree to provide to the Company information required to be or customarily disclosed for directors, candidates for directors and their Affiliates and Representatives in a proxy statement or other filings under applicable law or stock exchange rules or listing standards, information in connection with assessing eligibility, independence and other criteria applicable to directors or satisfying compliance and legal obligations and such other information as reasonably requested by the Company from time to time with respect to such Peninsula Nominee and consistent with the requirements and requests of the Company with respect to the other non-employee Board members; provided that in no event shall such Peninsula Director's relationship with the Peninsula Holder or its Affiliates (or any other actual or potential lack of independence resulting therefrom), in and of itself, be considered to disqualify such Peninsula Director from being a member of the Board pursuant to this Article 4. Each Peninsula Nominee shall, prior to being appointed or nominated, submit to the Company a fully completed, true and accurate copy of Company's standard director questionnaire and other reasonable and customary director onboarding documentation (including an authorization form to conduct a background check) required by the Company in connection with the appointment or nomination of any new Board member. Each Peninsula Nominee shall ensure, that, at all times while serving as a member of the Board, he or she will (i) meet all director independence and other standards of the Company, The Nasdaq Stock Market and the SEC and applicable provisions of the Exchange Act, including Rule 10A-3, and (ii) be qualified to serve as a director under applicable law and comply with requirements applicable to directors thereunder. In addition, while serving as a member of the Board, each Peninsula Nominee shall comply with all policies, procedures, processes, codes, rules, standards and guidelines of the Company that have been adopted by the Board and which are applicable to all non-employee Board members and which have been provided in advance to such Peninsula Nominee, and shall preserve the confidentiality of Company business and information, including discussions or matters considered in meetings of the Board or Board committees to the extent not disclosed publicly by the Company in a manner consistent with the confidentiality requirements applicable to all non-employee Board members; provided that, subject to the Company, such Peninsula Director and the Peninsula Holder entering into a customary and reasonable mutually acceptable confidentiality agreement (to the extent that such an agreement is requested of other non-employee Board members with respect to sharing of such information with their Representatives and Affiliates), such Peninsula Director shall be entitled to discuss Company business and matters discussed at meetings of the Board with other Representatives of the Peninsula Holder and its Affiliates so long as such interaction is covered by such confidentiality agreement and does not, based on the advice of counsel to the Company, jeopardize any attorney-client privilege

4.5 Director Indemnification. The Company shall indemnify the Peninsula Directors on the same basis as all other members of the Board and pursuant to indemnity agreements with terms that are no less favorable to the Peninsula Directors than the indemnity agreements entered into between the Company and other members of the Board.

4.6 Board Size. Prior to the expiration of the Peninsula Board Right Period, (i) the Company shall not increase the size of the Board to more than a total of twelve director seats; provided that the Company may temporarily increase the size of the Board to facilitate the retirement or resignation of any incumbent director and the replacement thereof with a new director and (ii) the Company shall not decrease the size of the Board if such decrease would require the resignation of any Peninsula Director, in each case, without the prior written consent of the Peninsula Holder.

SECTION 5
MISCELLANEOUS

5.1 Termination of Subsidiary Registration Rights Agreement. Upon the Closing and the effectiveness of this Agreement, the registration rights agreement dated July 26, 2017 among Industrea, the Sponsor and the holders party thereto shall terminate and be of no further force and effect**.**

5.2 **Amendment**. Except as expressly provided herein, neither this Agreement nor any term hereof may be amended, waived, discharged or terminated other than by a written instrument referencing this Agreement and signed by (i) the Company, and (ii) the Holders holding a majority of the Registrable Securities *provided*, *however*, that if any amendment, waiver, discharge or termination operates in a manner that treats any Holder different from other Holders, the consent of such Holder shall also be required for such amendment, waiver, discharge or termination. Persons who become assignees or other transferees of Registrable Securities in accordance with this Agreement after the date of this Agreement may become parties hereto, by executing a counterpart of this Agreement without any amendment of this Agreement pursuant to this paragraph or any consent or approval of any other Holder. Any amendment, waiver, discharge or termination effected in accordance with this paragraph shall be binding upon each Holder and each future holder of all such securities of such Holder.

5.3 **Notices**. All notices and other communications required or permitted hereunder shall be in writing and shall be mailed by registered or certified mail, postage prepaid, sent by facsimile or otherwise delivered by hand, electronic mail, messenger or courier service at the following addresses:

(a) if to an Investor, to such Investor's address, facsimile number or electronic mail address as shown on Exhibits A, B and C hereto, as may be updated in accordance with the provisions hereof.

(b) if to any Holder other than an Investor, to such address, facsimile number or electronic mail address as shown in the Company's records, or, until any such Holder so furnishes an address, facsimile number or electronic mail address to the Company, then to the address, facsimile number or electronic mail address of the last holder of such shares for which the Company has contact information in its records; or

(c) If to the Company or to Industrea:

Concrete Pumping Holdings, Inc.
6461 Downing Street
Denver, Colorado Attn: Chief Executive Officer
Facsimile: 303-289-4444
E-mail: bruceyoung@brundagebone.com

With a copy (which shall not constitute notice) to:

Winston & Strawn LLP
200 Park Avenue
New York, New York 10166
Attn: Dominick P. DeChiara
Facsimile: (212) 294-4700
Email: DDeChiara@winston.com

Each such notice or other communication shall for all purposes of this Agreement be treated as effective or having been given (i) if delivered by hand, messenger or courier service, when delivered (or if sent via a nationally-recognized overnight courier service, freight prepaid, specifying next-business-day delivery, one business day after deposit with the courier), (ii) if sent via mail, at the earlier of its receipt or five (5) days after the same has been deposited in a regularly-maintained receptacle for the deposit of the United States mail, addressed and mailed as aforesaid, (iii) if sent via facsimile, upon confirmation of facsimile transfer, or (iv) if via email, on the date of transmission.

5 . 4 Governing Law. This Agreement shall be governed in all respects by the internal laws of the State of Delaware as applied to agreements entered into among Delaware residents to be performed entirely within Delaware, without regard to principles of conflicts of law.

5 . 5 Successors and Assigns. The provisions of this Agreement shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the parties hereto.

5.6 Entire Agreement. This Agreement, the Merger Agreement, and the exhibits and schedules hereto and thereto constitute the full and entire understanding and agreement between the parties with regard to the subjects hereof. No party hereto shall be liable or bound to any other party in any manner with regard to the subjects hereof or thereof by any warranties, representations or covenants except as specifically set forth herein.

5.7 Delays or Omissions. Except as expressly provided herein, no delay or omission to exercise any right, power or remedy accruing to any party to this Agreement upon any breach or default of any other party under this Agreement shall impair any such right, power or remedy of such non-defaulting party, nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring, nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any party of any breach or default under this Agreement, or any waiver on the part of any party of any provisions or conditions of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Agreement or by law or otherwise afforded to any party to this Agreement, shall be cumulative and not alternative.

5 . 8 Remedies. Each holder of Registrable Securities, in addition to being entitled to exercise all rights granted by law, including recovery of damages, shall be entitled to specific performance of its rights under this Agreement. The Company acknowledges that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Agreement and the Company hereby agrees to waive the defense in any action for specific performance that a remedy at law would be adequate.

5.9 Severability. If any provision of this Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, portions of such provision, or such provision in its entirety, to the extent necessary, shall be severed from this Agreement, and such court will replace such illegal, void or unenforceable provision of this Agreement with a valid and enforceable provision that will achieve, to the extent possible, the same economic, business and other purposes of the illegal, void or unenforceable provision. The balance of this Agreement shall be enforceable in accordance with its terms.

5 . 1 0 Titles and Subtitles. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement. All references in this Agreement to sections, paragraphs and exhibits shall, unless otherwise provided, refer to sections and paragraphs hereof and exhibits attached hereto.

5 . 1 1 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be enforceable against the parties that execute such counterparts, and all of which together shall constitute one instrument.

5.12 Telecopy Execution and Delivery. A facsimile, telecopy, portable document format (" **PDF**") or other reproduction of this Agreement may be executed by one or more parties hereto and delivered by such party by facsimile, PDF or any similar electronic transmission device pursuant to which the signature of or on behalf of such party can be seen. Such execution and delivery shall be considered valid, binding and effective for all purposes. At the request of any party hereto, all parties hereto agree to execute and deliver an original of this Agreement as well as any facsimile, telecopy or other reproduction hereof.

5.13 Further Assurances. Each party hereto agrees to execute and deliver, by the proper exercise of its corporate, limited liability company, partnership or other powers, all such other and additional instruments and documents and do all such other acts and things as may be necessary to more fully effectuate this Agreement.

5.14 Attorneys' Fees. In the event that any suit or action is instituted to enforce any provision in this Agreement, the prevailing party in such dispute shall be entitled to recover from the losing party such reasonable fees and expenses of attorneys and accountants, which shall include, without limitation, all fees, costs and expenses of appeals.

5.15 Aggregation of Stock. All securities held or acquired by affiliated entities of or persons shall be aggregated together for purposes of determining the availability of any rights under this Agreement.

5.16 Jury Trial Consent to Jurisdiction. Any judicial proceeding brought with respect to this Agreement must be brought in any court of competent jurisdiction in the State of Delaware, and, by execution and delivery of this Agreement, each party (a) accepts, generally and unconditionally, the exclusive jurisdiction of such courts and any related appellate court, and irrevocably agrees to be bound by any judgment rendered thereby in connection with this Agreement; and (b) irrevocably waives any objection it may now or hereafter have as to the venue of any such suit, action or proceeding brought in such a court or that such court is an inconvenient forum. Nothing in this Section, however, shall affect the right of any party to serve legal process in any other manner permitted by law or at equity. Each party agrees that a final judgment in any action or proceeding so brought shall be conclusive and may be enforced by suit on the judgment or in any other manner provided by law or at equity. **EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING (WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATED TO THIS AGREEMENT.**

5.17 No Recourse. This Agreement may only be enforced against, and any claim or cause of action based upon, arising out of, or related to this Agreement or the transactions contemplated hereby may only be brought against, the entities that are expressly named as parties hereto and then only with respect to the specific obligations set forth herein with respect to such party. Except to the extent a named party to this Agreement (and then only to the extent of the specific obligations undertaken by such named party in this Agreement and not otherwise), no past, present or future director, officer, employee, incorporator, member, partner, stockholder, Affiliate, agent, attorney, advisor or representative or Affiliate of any of the foregoing shall have any liability (whether in contract, tort, equity or otherwise) for any one or more of the covenants, agreements or other obligations or liabilities of any one or more of the Company, Industrea or any Investor or Holder under this Agreement (whether for indemnification or otherwise) or of or for any claim based on, arising out of, or related to this Agreement or the transactions contemplated hereby.

[*Signature pages follow*]

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

CONCRETE PUMPING HOLDINGS, INC.

By: /s/ Iain Humphries
Name: Iain Humphries
Title: Chief Financial Officer

INDUSTREA ACQUISITION CORP.

By: /s/ Tariq Osman
Name: Tariq Osman
Title: Executive Vice President

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

INVESTORS:

INDUSTREA ALEXANDRIA LLC

By: /s/ Howard D. Morgan
Name: Howard D. Morgan
Title: Manager

ARGAND PARTNERS FUND, LP
By: Argand Partners Fund GP-LP, Ltd, its General Partner
By: Argand Partners Fund GP-GP, Ltd, its General Partner

By: /s/ Howard D. Morgan
Name: Howard D. Morgan
Title: Director

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

/s/ David A.B. Brown
David A.B. Brown

[*Signature Page to Stockholders Agreement*]

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

/s/ Thomas K. Armstrong, Jr.
Thomas K. Armstrong, Jr.

[*Signature Page to Stockholders Agreement*]

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

/s/ David G. Hall
David G. Hall

[*Signature Page to Stockholders Agreement*]

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

/s/ Brian Hodges
Brian Hodges

[*Signature Page to Stockholders Agreement*]

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

/s/ Gerard F. Rooney
Gerard F. Rooney

[*Signature Page to Stockholders Agreement*]

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

/s/ Don M. Heinz Jr.
Don M. Heinz Jr.

[*Signature Page to Stockholders Agreement*]

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

/s/ William L. Henshaw
William L. Henshaw

[*Signature Page to Stockholders Agreement*]

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

/s/ Iain Humphries
Iain Humphries

[*Signature Page to Stockholders Agreement*]

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

/s/ Robert Keith Joiner
Robert Keith Joiner

[*Signature Page to Stockholders Agreement*]

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

/s/ Jeffrey D. LaBounty
Jeffrey D. LaBounty

[*Signature Page to Stockholders Agreement*]

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

/s/ Terry McConnell
Terry McConnell

[*Signature Page to Stockholders Agreement*]

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

/s/ Scott C. Rochel
Scott C. Rochel

[*Signature Page to Stockholders Agreement*]

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

/s/ Timothy W. Schieck
Timothy W. Schieck

[*Signature Page to Stockholders Agreement*]

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

/s/ Robert Seals
Robert Seals

[*Signature Page to Stockholders Agreement*]

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

/s/ David Anthony Faud
David Anthony Faud

/s/ Peter Faud
Peter Faud

/s/ Damian Shepherd
Damian Shepherd

/s/ Brendan Murphy
Brendan Murphy

/s/ Evelyn Murphy
Evelyn Murphy

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

/s/ Jeffrey Switzer
Jeffrey Switzer

[*Signature Page to Stockholders Agreement*]

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

/s/ David S. Tinkle
David S. Tinkle

[*Signature Page to Stockholders Agreement*]

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

/s/ Randal A. Waterman
Randal A. Waterman

[*Signature Page to Stockholders Agreement*]

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

/s/ Gregg A. White
Gregg A. White

[*Signature Page to Stockholders Agreement*]

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

/s/ Bruce F. Young
Bruce F. Young

[*Signature Page to Stockholders Agreement*]

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

BBCP INVESTORS, LLC
By: PGP Investors, LLC, its Sole Member
By: PGP Manager, LLC, its Manager
By: PGP Advisors, LLC, its Manager

By: /s/ M. Brent Stevens
Name: M. Brent Stevens
Title: Manager

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

/s/ Robert Bruce Woods
Robert Bruce Woods

[*Signature Page to Stockholders Agreement*]

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

/s/ William K. Wood
William K. Wood

[*Signature Page to Stockholders Agreement*]

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

/s/ Joel Silkett
Joel Silkett

[*Signature Page to Stockholders Agreement*]

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

/s/ Richard Hansen
Richard Hansen

[*Signature Page to Stockholders Agreement*]

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

/s/ John G. Hudek
John G. Hudek

[*Signature Page to Stockholders Agreement*]

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

/s/ Dale C. Bone
Dale C. Bone

[*Signature Page to Stockholders Agreement*]

EXHIBIT A

INITIAL INVESTORS

Name	Address, Fax Number or Email for Notices	Number of Shares
Industrea Alexandria LLC	[_]	[_]
David A.B. Brown	[_]	[_]
Thomas K. Armstrong, Jr.	[_]	[_]
David G. Hall	[_]	[_]
Brian Hodges	[_]	[_]
Gerard F. Rooney	[_]	[_]

EXHIBIT B

CPH MANAGEMENT HOLDERS

Name	Address, Fax Number or Email for Notices	Number of Shares
David Anthony Faud	[_]	[_]
Peter Faud	[_]	[_]
Don M. Heinz Jr.	[_]	[_]
William L. Henshaw	[_]	[_]
Iain Humphries	[_]	[_]
Robert Keith Joiner	[_]	[_]
Jeffrey D. LaBounty	[_]	[_]
Terry McConnell	[_]	[_]
Brendan Murphy	[_]	[_]
Scott C. Rochel	[_]	[_]
Timothy W. Schieck	[_]	[_]
Robert Seals	[_]	[_]
Damien Shepherd	[_]	[_]
Jeffrey Switzer	[_]	[_]
Dave Tinkle	[_]	[_]
Randal A. Waterman	[_]	[_]
Gregg A. White	[_]	[_]
Bruce F. Young	[_]	[_]

EXHIBIT C

NON-MANAGEMENT CPH HOLDERS

Name	Address, Fax Number or Email for Notices	Number of Shares
BBCP Investors, LLC	[_]	[_]
Robert Bruce Woods	[_]	[_]
William K. Wood	[_]	[_]
Joel Silkett	[_]	[_]
Richard Hansen	[_]	[_]
John G. Hudek	[_]	[_]
Dale C. Bone	[_]	[_]

Exhibit 10.36

Execution Version

CONCRETE PUMPING HOLDINGS ACQUISITION CORP.
28 West 44th Street, Suite 501
New York, New York 10036

December 6, 2018

Nuveen Alternatives Advisors, LLC
730 Third Avenue
New York, New York 10017
Attention: Managing Director and General Counsel

Ladies and Gentlemen:

This agreement (this "Letter Agreement") is written in connection with the investment by Nuveen Alternatives Advisors, LLC and its affiliates (the "Investor") in Concrete Pumping Holdings Acquisition Corp., a Delaware corporation (the "Corporation"), pursuant to that certain Subscription Agreement, dated as of September 7, 2018, by and among the Investor, the Corporation and Industrea Acquisition Corp., a Delaware corporation (the "Subscription Agreement"). Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Subscription Agreement. In connection with such investment, the undersigned agree as follows:

1. Board Observer.

For so long as the Investor beneficially owns an aggregate of 5.0% or more of the aggregate number of shares of the common stock, par value $0.0001 per share, of the Corporation, including the stock into which the Preferred Stock is convertible, and any securities into which the common stock may be reclassified (the "Common Stock"), outstanding on a fully diluted, as-converted basis, the Investor shall be entitled to designate one individual to serve as a non-voting observer (the "Board Observer") of the board of directors of the Corporation (the "Board of Directors") to attend all meetings of the Board of Directors of the Corporation (including any closed session) in a non-voting capacity, and in connection therewith, the Corporation shall give such Board Observer copies of all notices, minutes, consents and other materials, financial or otherwise, which the Corporation provides to its Board of Directors (including any closed session materials); provided, however, that the Corporation reserves the right to exclude such Board Observer from access to any material or meeting or portion thereof if the Corporation believes in good faith upon advice of counsel that such exclusion is reasonably necessary to preserve the attorney-client privilege, to protect highly confidential information or for other similar reasons. The Board Observer shall execute a customary non-disclosure agreement in a form provided by the Corporation with respect to information provided or otherwise made available to the Board Observer in connection with its attendance at meetings of the Board of Directors. The Investor shall be responsible for all costs, expenses and risks related to the designation and service of the Board Observer.

2. Subscription Rights.

(a) The Investor shall have the right to purchase equity securities that are issued by the Corporation in any capital raising transaction (each an "Additional Issuance") that occurs after the Closing Date to the extent necessary in order to maintain the Investor's then-existing pro rata ownership percentage in the Company on a fully diluted, as-converted basis (the "Additional Shares"). For the avoidance of doubt, Additional Issuances shall not include: (i) issuances or grants of equity securities (including, without limitation, options and restricted stock units) pursuant to any management incentive equity plan adopted by the Company; (ii) issuances of equity securities by the Company to the seller(s) in consideration for an acquisition of any assets, business or entity undertaken by the Company or any subsidiary of the Company; (iii) issuances of equity securities in connection with any equity split or reverse equity split or equivalent action by the Company; and (iv) issuances of equity securities by the Company in connection with a debt financing of the Company or any of its subsidiaries.

(b) If the Investor is entitled to purchase Additional Shares pursuant to Section 2(a) above, then the Corporation shall give, by first class mail postage prepaid, addressed to the Investor at the address of the Investor as shown on the books of the Corporation, at least fifteen (15) days prior written notice of the date when the Additional Issuance shall take place. For a period of ten (10) Business Days (the "Exercise Period") after the date on which notice regarding the Additional Issuance is deemed to have been delivered to the Investor, the Investor shall have the right to purchase all or any part of the Additional Shares on terms and conditions no less favorable than as are being offered to any other participant in the Additional Issuance. In order to exercise its right hereunder, the Investor must deliver written notice to the Corporation within the Exercise Period.

3. General.

(a) The Corporation represents and warrants to the Investor that, as of the date hereof, (i) no series of equity securities of the Corporation has been issued and is outstanding that ranks senior to or *pari passu* with the Preferred Stock in liquidation preference and (ii) no borrowed money indebtedness has been incurred by the Corporation that ranks junior to the Term Loan and the ABL Facility.

(b) The terms of this Letter Agreement shall become effective upon the execution and delivery of this Letter Agreement by each of the parties hereto. This Letter Agreement may not be modified or amended, unless expressly agreed to in writing by the Investor and the Corporation. Nothing in this Letter Agreement shall be construed to limit your obligations under the Subscription Agreement or any agreement related thereto. This Letter Agreement may be executed in any number of counterparts, any one of which need not contain the signatures of more than one party, but all of such counterparts together shall constitute one agreement, and such counterparts that are delivered by PDF or other electronic means shall be treated as originals for all purposes. This Letter Agreement shall be governed by, and construed in accordance with, the laws of the state of Delaware, without regard to the principles of conflicts of laws that would otherwise require the application of the law of any other state. The execution and delivery of this Letter Agreement by the Investor constitutes the representation that (x) the Investor is authorized to execute this Letter Agreement and (y) the terms of this Letter Agreement are binding upon, and in full force and effect against, the Investor.

[Remainder of page intentionally left blank]

If the above correctly reflects your understanding and agreement with respect to the foregoing matters, please so confirm by signing this Letter Agreement.

Sincerely,

Concrete Pumping Holdings Acquisition Corp.

By: /s/ Tariq Osman
Name: Tariq Osman
Title: President

Accepted and agreed as of the date first above written:

Nuveen Alternatives Advisors, LLC, on behalf of
one or more funds and accounts

By: /s/ Derek Fricke
Name: Derek Fricke
Title: Senior Director

Exhibit 10.37

INDEMNITY AGREEMENT

THIS INDEMNITY AGREEMENT (this "***Agreement***") is made as of December 6, 2018, by and between Concrete Pumping Holdings, Inc., a Delaware corporation (the "***Company***"), and ("***Indemnitee***").

RECITALS

WHEREAS, highly competent persons have become more reluctant to serve publicly-held corporations as directors, officers or in other capacities unless they are provided with adequate protection through insurance or adequate indemnification against inordinate risks of claims and actions against them arising out of their service to and activities on behalf of such corporations;

WHEREAS, the Board of Directors of the Company (the "***Board***") has determined that, in order to attract and retain qualified individuals, the Company will attempt to maintain on an ongoing basis, at its sole expense, liability insurance to protect persons serving the Company and its subsidiaries from certain liabilities. Although the furnishing of such insurance has been a customary and widespread practice among United States-based corporations and other business enterprises, the Company believes that, given current market conditions and trends, such insurance may be available to it in the future only at higher premiums and with more exclusions. At the same time, directors, officers and other persons in service to corporations or business enterprises are being increasingly subjected to expensive and time-consuming litigation relating to, among other things, matters that traditionally would have been brought only against the Company or business enterprise itself. The Second Amended and Restated Certificate of Incorporation (the "***Charter***") and the Bylaws of the Company (the "***Bylaws***") require indemnification of the officers and directors of the Company. Indemnitee may also be entitled to indemnification pursuant to applicable provisions of the Delaware General Corporation Law ("***DGCL***"). The Charter, Bylaws and the DGCL expressly provide that the indemnification provisions set forth therein are not exclusive, and thereby contemplate that contracts may be entered into between the Company and members of the board of directors, officers and other persons with respect to indemnification, hold harmless, exoneration, advancement and reimbursement rights;

WHEREAS, the uncertainties relating to such insurance and to indemnification have increased the difficulty of attracting and retaining such persons;

WHEREAS, the Board has determined that the increased difficulty in attracting and retaining such persons is detrimental to the best interests of the Company's stockholders and that the Company should act to assure such persons that there will be increased certainty of such protection in the future;

WHEREAS, it is reasonable, prudent and necessary for the Company contractually to obligate itself to indemnify, hold harmless, exonerate and to advance expenses on behalf of, such persons to the fullest extent permitted by applicable law so that they will serve or continue to serve the Company free from undue concern that they will not be so protected against liabilities;

WHEREAS, this Agreement is a supplement to and in furtherance of the Charter and Bylaws of the Company and any resolutions adopted pursuant thereto, and shall not be deemed a substitute therefor, nor to diminish or abrogate any rights of Indemnitee thereunder;

WHEREAS, Indemnitee may not be willing to serve as an officer or director, advisor or in another capacity without adequate protection, and the Company desires Indemnitee to serve in such capacity. Indemnitee is willing to serve, continue to serve and to take on additional service for or on behalf of the Company on the condition that he be so indemnified; and

NOW, **THEREFORE**, the Company and Indemnitee do hereby covenant and agree as follows:

TERMS AND CONDITIONS

1 . **SERVICES TO THE COMPANY**. In consideration of the Company's covenants and obligations hereunder, Indemnitee will serve or continue to serve as an officer, director, advisor, key employee or any other capacity of the Company, as applicable, for so long as Indemnitee is duly elected or appointed or retained or until Indemnitee tenders his resignation or until Indemnitee is removed. The foregoing notwithstanding, this Agreement shall continue in full force and effect after Indemnitee has ceased to serve as a director, officer, advisor, key employee or in any other capacity of the Company, as provided in Section 17. This Agreement, however, shall not impose any obligation on Indemnitee or the Company to continue Indemnitee's service to the Company beyond any period otherwise required by law or by other agreements or commitments of the parties, if any.

2. **DEFINITIONS**. As used in this Agreement:

(a) References to "***agent***" shall mean any person who is or was a director, officer or employee of the Company or a subsidiary of the Company or other person authorized by the Company to act for the Company, to include such person serving in such capacity as a director, officer, employee, fiduciary or other official of another corporation, partnership, limited liability company, joint venture, trust or other enterprise at the request of, for the convenience of, or to represent the interests of the Company or a subsidiary of the Company.

(b) The terms "***Beneficial Owner***" and "***Beneficial Ownership***" shall have the meanings set forth in Rule 13d¬3 promulgated under the Exchange Act (as defined below) as in effect on the date hereof.

(c) A "***Change in Control***" shall be deemed to occur upon the earliest to occur after the date of this Agreement of any of the following events:

(i) Acquisition of Stock by Third Party. Any Person (as defined below) is or becomes the Beneficial Owner, directly or indirectly, of securities of the Company representing fifteen percent (15%) or more of the combined voting power of the Company's then outstanding securities entitled to vote generally in the election of directors, unless (1) the change in the relative Beneficial Ownership of the Company's securities by any Person results solely from a reduction in the aggregate number of outstanding shares of securities entitled to vote generally in the election of directors, or (2) such acquisition was approved in advance by the Continuing Directors (as defined below) and such acquisition would not constitute a Change in Control under part (iii) of this definition;

(ii) Change in Board of Directors. Individuals who, as of the date hereof, constitute the Board, and any new director whose election by the Board or nomination for election by the Company's stockholders was approved by a vote of at least two thirds of the directors then still in office who were directors on the date hereof or whose election for nomination for election was previously so approved (collectively, the "***Continuing Directors***"), cease for any reason to constitute at least a majority of the members of the Board;

(iii) Corporate Transactions. The effective date of a merger, capital stock exchange, asset acquisition, stock purchase, reorganization or similar business combination, involving the Company and one or more businesses (a "***Business Combination***"), in each case, unless, following such Business Combination: (1) all or substantially all of the individuals and entities who were the Beneficial Owners of securities entitled to vote generally in the election of directors immediately prior to such Business Combination beneficially own, directly or indirectly, more than 51% of the combined voting power of the then outstanding securities of the Company entitled to vote generally in the election of directors resulting from such Business Combination (including, without limitation, a corporation 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 (as defined below)) in substantially the same proportions as their ownership immediately prior to such Business Combination, of the securities entitled to vote generally in the election of directors; (2) no Person (excluding any corporation resulting from such Business Combination) is the Beneficial Owner, directly or indirectly, of 15% or more of the combined voting power of the then outstanding securities entitled to vote generally in the election of directors of the surviving corporation except to the extent that such ownership existed prior to the Business Combination; and (3) at least a majority of the Board of Directors of the corporation resulting from such Business Combination were Continuing Directors at the time of the execution of the initial agreement, or of the action of the Board of Directors, providing for such Business Combination;

(iv) Liquidation. The approval by the stockholders of the Company of a complete liquidation of the Company or an agreement or series of agreements for the sale or disposition by the Company of all or substantially all of the Company's assets, other than factoring the Company's current receivables or escrows due (or, if such stockholder approval is not required, the decision by the Board to proceed with such a liquidation, sale, or disposition in one transaction or a series of related transactions); or

(v) Other Events. There occurs any other event of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A (or any successor rule) (or a response to any similar item on any similar schedule or form) promulgated under the Exchange Act (as defined below), whether or not the Company is then subject to such reporting requirement.

(d) "***Corporate Status***" describes the status of a person who is or was a director, officer, trustee, general partner, manager, managing member, fiduciary, employee or agent of the Company or of any other Enterprise (as defined below) which such person is or was serving at the request of the Company.

(e) "***Delaware Court***" shall mean the Court of Chancery of the State of Delaware.

"***Disinterested Director***" shall mean a director of the Company who is not and was not a party to the Proceeding (as defined below) in respect of which indemnification is sought by Indemnitee.

(f) "***Enterprise***" shall mean the Company and any other corporation, constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger to which the Company (or any of its wholly owned subsidiaries) is a party, limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise of which Indemnitee is or was serving at the request of the Company as a director, officer, trustee, general partner, managing member, fiduciary, employee or agent.

(g) "***Exchange Act***" shall mean the Securities Exchange Act of 1934, as amended.

(h) "***Expenses***" shall include all direct and indirect costs, fees and expenses of any type or nature whatsoever, including, without limitation, all reasonable attorneys' fees and costs, retainers, court costs, transcript costs, fees of experts, witness fees, travel expenses, fees of private investigators and professional advisors, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, fax transmission charges, secretarial services and all other disbursements, obligations or expenses in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in, settlement or appeal of, or otherwise participating in, a Proceeding (as defined below), including reasonable compensation for time spent by Indemnitee for which he or she is not otherwise compensated by the Company or any third party. Expenses also shall include Expenses incurred in connection with any appeal resulting from any Proceeding (as defined below), including without limitation the principal, premium, security for, and other costs relating to any cost bond, supersedeas bond, or other appeal bond or its equivalent. Expenses, however, shall not include amounts paid in settlement by Indemnitee or the amount of judgments or fines against Indemnitee.

(i) References to "***fines***" shall include any excise tax assessed on Indemnitee with respect to any employee benefit plan; references to "***serving at the request of the Company***" shall include any service as a director, officer, employee, agent or fiduciary of the Company which imposes duties on, or involves services by, such director, officer, employee, agent or fiduciary with respect to an employee benefit plan, its participants or beneficiaries; and if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in the best interests of the participants and beneficiaries of an employee benefit plan, Indemnitee shall be deemed to have acted in a manner "***not opposed to***, ***the best interests of the Company***" as referred to in this Agreement.

(j) "***Independent Counsel***" shall mean a law firm or a member of a law firm with significant experience in matters of corporation law and that neither presently is, nor in the past five years has been, retained to represent: (i) the Company or Indemnitee in any matter material to either such party (other than with respect to matters concerning Indemnitee under this Agreement, or of other indemnitees under similar indemnification agreements); or (ii) any other party to the Proceeding (as defined below) giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term "***Independent Counsel***" shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee's rights under this Agreement.

(k) The term "***Person***" shall have the meaning as set forth in Sections 13(d) and 14(d) of the Exchange Act as in effect on the date hereof; provided, however, that "***Person***" shall exclude: (i) the Company; (ii) any Subsidiaries (as defined below) of the Company; (iii) any employment benefit plan of the Company or of a Subsidiary (as defined below) of the Company or of any corporation owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their ownership of stock of the Company; and (iv) any trustee or other fiduciary holding securities under an employee benefit plan of the Company or of a Subsidiary (as defined below) of the Company or of a corporation owned directly or indirectly by the stockholders of the Company in substantially the same proportions as their ownership of stock of the Company.

(l) The term "***Proceeding***" shall include any threatened, pending or completed action, suit, arbitration, mediation, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other actual, threatened or completed proceeding, whether brought in the right of the Company or otherwise and whether of a civil (including intentional or unintentional tort claims), criminal, administrative or investigative or related nature, in which Indemnitee was, is, will or might be involved as a party or otherwise by reason of the fact that Indemnitee is or was a director or officer of the Company, by reason of any action (or failure to act) taken by him or of any action (or failure to act) on his part while acting as a director or officer of the Company, or by reason of the fact that he is or was serving at the request of the Company as a director, officer, trustee, general partner, managing member, fiduciary, employee or agent of any other Enterprise, in each case whether or not serving in such capacity at the time any liability or expense is incurred for which indemnification, reimbursement, or advancement of expenses can be provided under this Agreement.

(m) The term "***Subsidiary***," with respect to any Person, shall mean any corporation, limited liability company, partnership, joint venture, trust or other entity of which a majority of the voting power of the voting equity securities or equity interest is owned, directly or indirectly, by that Person.

3 . **INDEMNITY IN THIRD-PARTY PROCEEDINGS**. To the fullest extent permitted by applicable law, the Company shall indemnify, hold harmless and exonerate Indemnitee in accordance with the provisions of this Section 3 if Indemnitee was, is, or is threatened to be made, a party to or a participant (as a witness, deponent or otherwise) in any Proceeding, other than a Proceeding by or in the right of the Company to procure a judgment in its favor by reason of Indemnitee's Corporate Status. Pursuant to this Section 3, Indemnitee shall be indemnified, held harmless and exonerated against all Expenses, judgments, liabilities, fines, penalties and amounts paid in settlement (including all interest, assessments and other charges paid or payable in connection with or in respect of such Expenses, judgments, fines, penalties and amounts paid in settlement) actually, and reasonably incurred by Indemnitee or on his behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Company and, in the case of a criminal Proceeding, had no reasonable cause to believe that his conduct was unlawful.

4 . **INDEMNITY IN PROCEEDINGS BY OR IN THE RIGHT OF THE COMPANY**. To the fullest extent permitted by applicable law, the Company shall indemnify, hold harmless and exonerate Indemnitee in accordance with the provisions of this Section 4 if Indemnitee was, is, or is threatened to be made, a party to or a participant (as a witness, deponent or otherwise) in any Proceeding by or in the right of the Company to procure a judgment in its favor by reason of Indemnitee's Corporate Status. Pursuant to this Section 4, Indemnitee shall be indemnified, held harmless and exonerated against all Expenses actually and reasonably incurred by him or on his behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Company. No indemnification, hold harmless or exoneration for Expenses shall be made under this Section 4 in respect of any claim, issue or matter as to which Indemnitee shall have been finally adjudged by a court to be liable to the Company, unless and only to the extent that any court in which the Proceeding was brought or the Delaware Court shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnification, to be held harmless or to exoneration.

5 . **INDEMNIFICATION FOR EXPENSES OF A PARTY WHO IS WHOLLY OR PARTLY SUCCESSFUL** . Notwithstanding any other provisions of this Agreement, to the extent that Indemnitee was or is, by reason of Indemnitee's Corporate Status, a party to (or a participant in) and is successful, on the merits or otherwise, in any Proceeding or in defense of any claim, issue or matter therein, in whole or in part, the Company shall, to the fullest extent permitted by applicable law, indemnify, hold harmless and exonerate Indemnitee against all Expenses actually and reasonably incurred by him in connection therewith. If Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company shall, to the fullest extent permitted by applicable law, indemnify, hold harmless and exonerate Indemnitee against all Expenses actually and reasonably incurred by him or on his behalf in connection with each successfully resolved claim, issue or matter. If Indemnitee is not wholly successful in such Proceeding, the Company also shall, to the fullest extent permitted by applicable law, indemnify, hold harmless and exonerate Indemnitee against all Expenses reasonably incurred in connection with a claim, issue or matter related to any claim, issue, or matter on which Indemnitee was successful. For purposes of this Section and without limitation, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

6 . **INDEMNIFICATION FOR EXPENSES OF A WITNESS** . Notwithstanding any other provision of this Agreement, to the extent that Indemnitee is, by reason of his Corporate Status, a witness or deponent in any Proceeding to which Indemnitee was or is not a party or threatened to be made a party, he shall, to the fullest extent permitted by applicable law, be indemnified, held harmless and exonerated against all Expenses actually and reasonably incurred by him or on his behalf in connection therewith.

7. **ADDITIONAL INDEMNIFICATION, HOLD HARMLESS AND EXONERATION RIGHTS**.

(a) Notwithstanding any limitation in Sections 3, 4, or 5, the Company shall, to the fullest extent permitted by applicable law, indemnify, hold harmless and exonerate Indemnitee if Indemnitee is a party to or threatened to be made a party to any Proceeding (including a Proceeding by or in the right of the Company to procure a judgment in its favor) against all Expenses, judgments, fines, penalties and amounts paid in settlement (including all interest, assessments and other charges paid or payable in connection with or in respect of such Expenses, judgments, fines, penalties and amounts paid in settlement) actually and reasonably incurred by Indemnitee in connection with the Proceeding. No indemnification, hold harmless or exoneration rights shall be available under this Section 7 on account of Indemnitee's conduct which constitutes a breach of Indemnitee's duty of loyalty to the Company or its stockholders or is an act or omission not in good faith or which involves intentional misconduct or a knowing violation of the law.

8. **CONTRIBUTION IN THE EVENT OF JOINT LIABILITY**.

(a) To the fullest extent permissible under applicable law, if the indemnification, hold harmless and/or exoneration rights provided for in this Agreement are unavailable to Indemnitee in whole or in part for any reason whatsoever, the Company, in lieu of indemnifying, holding harmless or exonerating Indemnitee, shall pay, in the first instance, the entire amount incurred by Indemnitee, whether for judgments, liabilities, fines, penalties, amounts paid or to be paid in settlement and/or for Expenses, in connection with any Proceeding without requiring Indemnitee to contribute to such payment, and the Company hereby waives and relinquishes any right of contribution it may have at any time against Indemnitee.

(b) The Company shall not enter into any settlement of any Proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such Proceeding) unless such settlement provides for a full and final release of all claims asserted against Indemnitee.

(c) The Company hereby agrees to fully indemnify, hold harmless and exonerate Indemnitee from any claims for contribution which may be brought by officers, directors or employees of the Company other than Indemnitee who may be jointly liable with Indemnitee.

9 . **EXCLUSIONS**. Notwithstanding any provision in this Agreement, the Company shall not be obligated under this Agreement to make any indemnification, advance expenses, hold harmless or exoneration payment in connection with any claim made against Indemnitee:

(a) for which payment has actually been received by or on behalf of Indemnitee under any insurance policy or other indemnity or advancement provision, except with respect to any excess beyond the amount actually received under any insurance policy, contract, agreement, other indemnity or advancement provision or otherwise;

(b) for an accounting of profits made from the purchase and sale (or sale and purchase) by Indemnitee of securities of the Company within the meaning of Section 16(b) of the Exchange Act (or any successor rule) or similar provisions of state statutory law or common law; or

(c) except as otherwise provided in Sections 14(f)-(g) hereof, prior to a Change in Control, in connection with any Proceeding (or any part of any Proceeding) initiated by Indemnitee, including any Proceeding (or any part of any Proceeding) initiated by Indemnitee against the Company or its directors, officers, employees or other indemnitees, unless (i) the Board authorized the Proceeding (or any part of any Proceeding) prior to its initiation or (ii) the Company provides the indemnification, hold harmless or exoneration payment, in its sole discretion, pursuant to the powers vested in the Company under applicable law. Indemnitee shall seek payments or Advances from the Company only to the extent that such payments or Advances are unavailable from any insurance policy of the Company covering Indemnitee.

10. **ADVANCES OF EXPENSES; DEFENSE OF CLAIM**.

(a) Notwithstanding any provision of this Agreement to the contrary, and to the fullest extent not prohibited by applicable law, the Company shall pay the Expenses incurred by Indemnitee (or reasonably expected by Indemnitee to be incurred by Indemnitee within three months) in connection with any Proceeding within ten (10) days after the receipt by the Company of a statement or statements requesting such advances from time to time, prior to the final disposition of any Proceeding. Advances shall, to the fullest extent permitted by law, be unsecured and interest free. Advances shall, to the fullest extent permitted by law, be made without regard to Indemnitee's ability to repay the Expenses and without regard to Indemnitee's ultimate entitlement to be indemnified, held harmless or exonerated under the other provisions of this Agreement. Advances shall include any and all reasonable Expenses incurred pursuing a Proceeding to enforce this right of advancement, including Expenses incurred preparing and forwarding statements to the Company to support the advances claimed. To the fullest extent required by applicable law, such payments of Expenses in advance of the final disposition of the Proceeding shall be made only upon the Company's receipt of an undertaking, by or on behalf of Indemnitee, to repay the advanced amounts to the extent that it is ultimately determined that Indemnitee is not entitled to be indemnified by the Company under the provisions of this Agreement, the Charter, the Bylaws of the Company, applicable law or otherwise. This Section 10(a) shall not apply to any claim made by Indemnitee for which an indemnification, hold harmless or exoneration payment is excluded pursuant to Section 9.

(b) The Company will be entitled to participate in the Proceeding at its own expense.

(c) The Company shall not settle any action, claim or Proceeding (in whole or in part) which would impose any Expense, judgment, fine, penalty or limitation on Indemnitee without Indemnitee's prior written consent.

11. **PROCEDURE FOR NOTIFICATION AND APPLICATION FOR INDEMNIFICATION**.

(a) Indemnitee agrees to notify promptly the Company in writing upon being served with any summons, citation, subpoena, complaint, indictment, information or other document relating to any Proceeding, claim, issue or matter therein which may be subject to indemnification, hold harmless or exoneration rights, or advancement of Expenses covered hereunder. The failure of Indemnitee to so notify the Company shall not relieve the Company of any obligation which it may have to Indemnitee under this Agreement, or otherwise.

(b) Indemnitee may deliver to the Company a written application to indemnify, hold harmless or exonerate Indemnitee in accordance with this Agreement. Such application(s) may be delivered from time to time and at such time(s) as Indemnitee deems appropriate in his sole discretion. Following such a written application for indemnification by Indemnitee, Indemnitee's entitlement to indemnification shall be determined according to Section 12(a) of this Agreement.

12. **PROCEDURE UPON APPLICATION FOR INDEMNIFICATION**.

(a) A determination, if required by applicable law, with respect to Indemnitee's entitlement to indemnification shall be made in the specific case by one of the following methods: (x) if a Change in Control shall have occurred, (i) by Independent Counsel in a written opinion to the Board or (ii) if the Indemnitee so requests in writing, by a majority vote of the Disinterested Directors, even though less than a quorum; or (y) if a Change of Control shall not have occurred: (i) by a majority vote of the Disinterested Directors, even though less than a quorum of the Board, (ii) by a committee of such directors designated by majority vote of such directors, (iii) if there are no Disinterested Directors or if such directors so direct, by Independent Counsel in a written opinion to the Board, a copy of which shall be delivered to Indemnitee, or (iv) if so directed by the Board, by vote of the stockholders. The Company promptly will advise Indemnitee in writing with respect to any determination that Indemnitee is or is not entitled to indemnification, including a description of any reason or basis for which indemnification has been denied. If it is so determined that Indemnitee is entitled to indemnification, payment to Indemnitee shall be made within ten (10) days after such determination. Indemnitee shall reasonably cooperate with the person, persons or entity making such determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary to such determination. Any costs or Expenses (including reasonable attorneys' fees and disbursements) incurred by Indemnitee in so cooperating with the person, persons or entity making such determination shall be borne by the Company (irrespective of the determination as to Indemnitee's entitlement to indemnification) and the Company hereby agrees to indemnify and to hold Indemnitee harmless therefrom.

(b) In the event the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 12(a) hereof, the Independent Counsel shall be selected as provided in this Section 12(b). The Independent Counsel shall be selected by Indemnitee (unless Indemnitee shall request that such selection be made by the Board), and Indemnitee shall give written notice to the Company advising it of the identity of the Independent Counsel so selected and certifying that the Independent Counsel so selected meets the requirements of "***Independent Counsel***" as defined in Section 2 of this Agreement. If the Independent Counsel is selected by the Board, the Company shall give written notice to Indemnitee advising him of the identity of the Independent Counsel so selected and certifying that the Independent Counsel so selected meets the requirements of "***Independent Counsel***" as defined in Section 2 of this Agreement. In either event, Indemnitee or the Company, as the case may be, may, within ten (10) days after such written notice of selection shall have been received, deliver to the Company or to Indemnitee, as the case may be, a written objection to such selection; provided, however, that such objection may be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "***Independent Counsel***" as defined in Section 2 of this Agreement, and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If such written objection is so made and substantiated, the Independent Counsel so selected may not serve as Independent Counsel unless and until such objection is withdrawn or a court of competent jurisdiction has determined that such objection is without merit. If, within twenty (20) days after submission by Indemnitee of a written request for indemnification pursuant to Section 11(b) hereof, no Independent Counsel shall have been selected and not objected to, either the Company or Indemnitee may petition the Delaware Court for resolution of any objection which shall have been made by the Company or Indemnitee to the other's selection of Independent Counsel and/or for the appointment as Independent Counsel of a person selected by the Delaware Court, and the person with respect to whom all objections are so resolved or the person so appointed shall act as Independent Counsel under Section 12(a) hereof. Upon the due commencement of any judicial proceeding or arbitration pursuant to Section 14(a) of this Agreement, Independent Counsel shall be discharged and relieved of any further responsibility in such capacity (subject to the applicable standards of professional conduct then prevailing).

(c) The Company agrees to pay the reasonable fees and expenses of Independent Counsel and to fully indemnify and hold harmless such Independent Counsel against any and all Expenses, claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto.

13. **PRESUMPTIONS AND EFFECT OF CERTAIN PROCEEDINGS**.

(a) In making a determination with respect to entitlement to indemnification hereunder, the person, persons or entity making such determination shall presume that Indemnitee is entitled to indemnification under this Agreement if Indemnitee has submitted a request for indemnification in accordance with Section 11(b) of this Agreement, and the Company shall have the burden of proof to overcome that presumption in connection with the making by any person, persons or entity of any determination contrary to that presumption. Neither the failure of the Company (including by the Disinterested Directors or Independent Counsel) to have made a determination prior to the commencement of any action pursuant to this Agreement that indemnification is proper in the circumstances because Indemnitee has met the applicable standard of conduct, nor an actual determination by the Company (including by the Disinterested Directors or Independent Counsel) that Indemnitee has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that Indemnitee has not met the applicable standard of conduct.

(b) If the person, persons or entity empowered or selected under Section 12 of this Agreement to determine whether Indemnitee is entitled to indemnification shall not have made a determination within thirty (30) days after receipt by the Company of the request therefor, the requisite determination of entitlement to indemnification shall, to the fullest extent permitted by law, be deemed to have been made and Indemnitee shall be entitled to such indemnification, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a final judicial determination that any or all such indemnification is expressly prohibited under applicable law; provided, however, that such 30-day period may be extended for a reasonable time, not to exceed an additional fifteen (15) days, if the person, persons or entity making the determination with respect to entitlement to indemnification in good faith requires such additional time for the obtaining or evaluating of documentation and/or information relating thereto.

(c) The termination of any Proceeding or of any claim, issue or matter therein, by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not (except as otherwise expressly provided in this Agreement) of itself adversely affect the right of Indemnitee to indemnification or create a presumption that Indemnitee did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Company or, with respect to any criminal Proceeding, that Indemnitee had reasonable cause to believe that his conduct was unlawful.

(d) For purposes of any determination of good faith, Indemnitee shall be deemed to have acted in good faith if Indemnitee's action is based on the records or books of account of the Enterprise, including financial statements, or on information supplied to Indemnitee by the directors, manager, or officers of the Enterprise in the course of their duties, or on the advice of legal counsel for the Enterprise, its Board, any committee of the Board or any director, trustee, general partner, manager or managing member, or on information or records given or reports made to the Enterprise, its Board, any committee of the Board or any director, trustee, general partner, manager or managing member, by an independent certified public accountant or by an appraiser or other expert selected by the Enterprise, its Board, any committee of the Board or any director, trustee, general partner, manager or managing member. The provisions of this Section 13(d) shall not be deemed to be exclusive or to limit in any way the other circumstances in which Indemnitee may be deemed or found to have met the applicable standard of conduct set forth in this Agreement.

(e) The knowledge and/or actions, or failure to act, of any other director, officer, trustee, partner, manager, managing member, fiduciary, agent or employee of the Enterprise shall not be imputed to Indemnitee for purposes of determining the right to indemnification under this Agreement.

14. **REMEDIES OF INDEMNITEE**.

(a) In the event that (i) a determination is made pursuant to Section 12 of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) advancement of Expenses, to the fullest extent permitted by applicable law, is not timely made pursuant to Section 10 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 12(a) of this Agreement within thirty (30) days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Section 5, 6, 7 or the last sentence of Section 12(a) of this Agreement within ten (10) days after receipt by the Company of a written request therefor, (v) a contribution payment is not made in a timely manner pursuant to Section 8 of this Agreement, (vi) payment of indemnification pursuant to Section 3 or 4 of this Agreement is not made within ten (10) days after a determination has been made that Indemnitee is entitled to indemnification, or (vii) payment to Indemnitee pursuant to any hold harmless or exoneration rights under this Agreement or otherwise is not made in accordance with this Agreement, Indemnitee shall be entitled to an adjudication by the Delaware Court to such indemnification, hold harmless, exoneration, contribution or advancement rights. Alternatively, Indemnitee, at his option, may seek an award in arbitration to be conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Except as set forth herein, the provisions of Delaware law (without regard to its conflict of laws rules) shall apply to any such arbitration. The Company shall not oppose Indemnitee's right to seek any such adjudication or award in arbitration.

(b) In the event that a determination shall have been made pursuant to Section 12(a) of this Agreement that Indemnitee is not entitled to indemnification, any judicial proceeding or arbitration commenced pursuant to this Section 14 shall be conducted in all respects as a de novo trial, or arbitration, on the merits and Indemnitee shall not be prejudiced by reason of that adverse determination.

(c) In any judicial proceeding or arbitration commenced pursuant to this Section 14, Indemnitee shall be presumed to be entitled to be indemnified, held harmless, exonerated to receive advancement of Expenses under this Agreement and the Company shall have the burden of proving Indemnitee is not entitled to be indemnified, held harmless, exonerated and to receive advancement of Expenses, as the case may be, and the Company may not refer to or introduce into evidence any determination pursuant to Section 12(a) of this Agreement adverse to Indemnitee for any purpose. If Indemnitee commences a judicial proceeding or arbitration pursuant to this Section 14, Indemnitee shall not be required to reimburse the Company for any advances pursuant to Section 10 until a final determination is made with respect to Indemnitee's entitlement to indemnification (as to which all rights of appeal have been exhausted or lapsed).

(d) If a determination shall have been made pursuant to Section 12(a) of this Agreement that Indemnitee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding or arbitration commenced pursuant to this Section 14, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law.

(e) The Company shall be precluded from asserting in any judicial proceeding or arbitration commenced pursuant to this Section 14 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court or before any such arbitrator that the Company is bound by all the provisions of this Agreement.

(f) The Company shall indemnify and hold harmless Indemnitee to the fullest extent permitted by law against all Expenses and, if requested by Indemnitee, shall (within ten (10) days after the Company's receipt of such written request) pay to Indemnitee, to the fullest extent permitted by applicable law, such Expenses which are incurred by Indemnitee in connection with any judicial proceeding or arbitration brought by Indemnitee: (i) to enforce his rights under, or to recover damages for breach of, this Agreement or any other indemnification, hold harmless, exoneration, advancement or contribution agreement or provision of the Charter, or the Bylaws now or hereafter in effect; or (ii) for recovery or advances under any insurance policy maintained by any person for the benefit of Indemnitee, regardless of the outcome and whether Indemnitee ultimately is determined to be entitled to such indemnification, hold harmless or exoneration right, advancement, contribution or insurance recovery, as the case may be (unless such judicial proceeding or arbitration was not brought by Indemnitee in good faith).

(g) Interest shall be paid by the Company to Indemnitee at the legal rate under Delaware law for amounts which the Company indemnifies, holds harmless or exonerates, or advances, or is obliged to indemnify, hold harmless or exonerate or advance for the period commencing with the date on which Indemnitee requests indemnification, to be held harmless, exonerated, contribution, reimbursement or advancement of any Expenses and ending with the date on which such payment is made to Indemnitee by the Company.

15. **SECURITY**. Notwithstanding anything herein to the contrary, to the extent requested by Indemnitee and approved by the Board, the Company may at any time and from time to time provide security to Indemnitee for the Company's obligations hereunder through an irrevocable bank line of credit, funded trust or other collateral. Any such security, once provided to Indemnitee, may not be revoked or released without the prior written consent of Indemnitee.

16. **NON-EXCLUSIVITY; SURVIVAL OF RIGHTS; INSURANCE; SUBROGATION**.

(a) The rights of Indemnitee as provided by this Agreement shall not be deemed exclusive of any other rights to which Indemnitee may at any time be entitled under applicable law, the Charter, the Bylaws, any agreement, a vote of stockholders or a resolution of directors, or otherwise. No amendment, alteration or repeal of this Agreement or of any provision hereof shall limit or restrict any right of Indemnitee under this Agreement in respect of any Proceeding (regardless of when such Proceeding is first threatened, commenced or completed) or claim, issue or matter therein arising out of, or related to, any action taken or omitted by such Indemnitee in his Corporate Status, prior to such amendment, alteration or repeal. To the extent that a change in applicable law, whether by statute or judicial decision, permits greater indemnification, hold harmless or exoneration rights or advancement of Expenses than would be afforded currently under the Charter, the Bylaws or this Agreement, it is the intent of the parties hereto that Indemnitee shall enjoy by this Agreement the greater benefits so afforded by such change. No right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right and remedy shall be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other right or remedy.

(b) The DGCL, the Charter and the Bylaws permit the Company to purchase and maintain insurance or furnish similar protection or make other arrangements including, but not limited to, providing a trust fund, letter of credit, or surety bond ("***Indemnification Arrangements***") on behalf of Indemnitee against any liability asserted against him or incurred by or on behalf of him or in such capacity as a director, officer, employee or agent of the Company, or arising out of his status as such, whether or not the Company would have the power to indemnify him against such liability under the provisions of this Agreement or under the DGCL, as it may then be in effect. The purchase, establishment, and maintenance of any such Indemnification Arrangement shall not in any way limit or affect the rights and obligations of the Company or of Indemnitee under this Agreement except as expressly provided herein, and the execution and delivery of this Agreement by the Company and Indemnitee shall not in any way limit or affect the rights and obligations of the Company or the other party or parties thereto under any such Indemnification Arrangement.

(c) To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, trustees, partners, managers, managing members, fiduciaries, employees, or agents of the Company or of any other Enterprise which such person serves at the request of the Company, Indemnitee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for any such director, officer, trustee, partner, managers, managing member, fiduciary, employee or agent under such policy or policies. If, at the time the Company receives notice from any source of a Proceeding as to which Indemnitee is a party or a participant (as a witness, deponent or otherwise), the Company has director and officer liability insurance in effect, the Company shall give prompt notice of such Proceeding to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of Indemnitee, all amounts payable as a result of such Proceeding in accordance with the terms of such policies.

(d) In the event of any payment under this Agreement, the Company, to the fullest extent permitted by law, shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

(e) The Company's obligation to indemnify, hold harmless, exonerate or advance Expenses hereunder to Indemnitee who is or was serving at the request of the Company as a director, officer, trustee, partner, manager, managing member, fiduciary, employee or agent of any other Enterprise shall be reduced by any amount Indemnitee has actually received as indemnification, hold harmless or exoneration payments or advancement of expenses from such Enterprise. Notwithstanding any other provision of this Agreement to the contrary, (i) Indemnitee shall have no obligation to reduce, offset, allocate, pursue or apportion any indemnification, hold harmless, exoneration, advancement, contribution or insurance coverage among multiple parties possessing such duties to Indemnitee prior to the Company's satisfaction and performance of all its obligations under this Agreement, and (ii) the Company shall perform fully its obligations under this Agreement without regard to whether Indemnitee holds, may pursue or has pursued any indemnification, advancement, hold harmless, exoneration, contribution or insurance coverage rights against any person or entity other than the Company.

17. **DURATION OF AGREEMENT**. All agreements and obligations of the Company contained herein shall continue during the period Indemnitee serves as a director or officer of the Company or as a director, officer, trustee, partner, manager, managing member, fiduciary, employee or agent of any other corporation, partnership, joint venture, trust, employee benefit plan or other Enterprise which Indemnitee serves at the request of the Company and shall continue thereafter so long as Indemnitee shall be subject to any possible Proceeding (including any rights of appeal thereto and any Proceeding commenced by Indemnitee pursuant to Section 14 of this Agreement) by reason of his Corporate Status, whether or not he is acting in any such capacity at the time any liability or expense is incurred for which indemnification or advancement can be provided under this Agreement.

18. **SEVERABILITY**. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Agreement (including, without limitation, each portion of any Section, paragraph or sentence of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and shall remain enforceable to the fullest extent permitted by law; (b) such provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of the parties hereto; and (c) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any Section, paragraph or sentence of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested thereby.

19. **ENFORCEMENT AND BINDING EFFECT**.

(a) The Company expressly confirms and agrees that it has entered into this Agreement and assumed the obligations imposed on it hereby in order to induce Indemnitee to serve as a director, officer or key employee of the Company, and the Company acknowledges that Indemnitee is relying upon this Agreement in serving as a director, officer or key employee of the Company.

(b) Without limiting any of the rights of Indemnitee under the Charter or Bylaws of the Company as they may be amended from time to time, this Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof.

(c) The indemnification, hold harmless, exoneration and advancement of expenses rights provided by or granted pursuant to this Agreement shall be binding upon and be enforceable by the parties hereto and their respective successors and assigns (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business and/or assets of the Company), shall continue as to an Indemnitee who has ceased to be a director, officer, employee or agent of the Company or a director, officer, trustee, general partner, manager, managing member, fiduciary, employee or agent of any other Enterprise at the Company's request, and shall inure to the benefit of Indemnitee and his spouse, assigns, heirs, devisees, executors and administrators and other legal representatives.

(d) The Company shall require and cause any successor (whether direct or indirect by purchase, merger, consolidation or otherwise) to all, substantially all or a substantial part, of the business and/or assets of the Company, by written agreement in form and substance satisfactory to Indemnitee, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform if no such succession had taken place.

(e) The Company and Indemnitee agree herein that a monetary remedy for breach of this Agreement, at some later date, may be inadequate, impracticable and difficult of proof, and further agree that such breach may cause Indemnitee irreparable harm. Accordingly, the parties hereto agree that Indemnitee may, to the fullest extent permitted by law, enforce this Agreement by seeking, among other things, injunctive relief and/or specific performance hereof, without any necessity of showing actual damage or irreparable harm and that by seeking injunctive relief and/or specific performance, Indemnitee shall not be precluded from seeking or obtaining any other relief to which he may be entitled. The Company and Indemnitee further agree that Indemnitee shall, to the fullest extent permitted by law, be entitled to such specific performance and injunctive relief, including temporary restraining orders, preliminary injunctions and permanent injunctions, without the necessity of posting bonds or other undertaking in connection therewith. The Company acknowledges that in the absence of a waiver, a bond or undertaking may be required of Indemnitee by a court of competent jurisdiction, Company hereby waives any such requirement of such a bond or undertaking to the fullest extent permitted by law.

20. **MODIFICATION AND WAIVER** . No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by the Company and Indemnitee. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions of this Agreement nor shall any waiver constitute a continuing waiver.

21. **NOTICES**. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given (i) if delivered by hand and receipted for by the party to whom said notice or other communication shall have been directed, or (ii) mailed by certified or registered mail with postage prepaid, on the third (3rd) business day after the date on which it is so mailed:

(a) If to Indemnitee, at the address indicated on the signature page of this Agreement, or such other address as Indemnitee shall provide in writing to the Company.

(b) If to the Company, to:

Concrete Pumping Holdings, Inc.

6461 Downing Street

Denver, Colorado 80229

Attention: Chief Financial Officer

With a copy, which shall not constitute notice, to

Winston & Strawn LLP

200 Park Avenue

New York, NY 10166

Attn: Joel L. Rubinstein

Fax No.: (212) 294-6787

or to any other address as may have been furnished to Indemnitee in writing by the Company.

22. **APPLICABLE LAW AND CONSENT TO JURISDICTION**. This Agreement and the legal relations among the parties shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without regard to its conflict of laws rules. Except with respect to any arbitration commenced by Indemnitee pursuant to Section 14(a) of this Agreement, to the fullest extent permitted by law, the Company and Indemnitee hereby irrevocably and unconditionally: (a) agree that any action or proceeding arising out of or in connection with this Agreement shall be brought only in the Delaware Court and not in any other state or federal court in the United States of America or any court in any other country; (b) consent to submit to the exclusive jurisdiction of the Delaware Court for purposes of any action or proceeding arising out of or in connection with this Agreement; (c) waive any objection to the laying of venue of any such action or proceeding in the Delaware Court; and (d) waive, and agree not to plead or to make, any claim that any such action or proceeding brought in the Delaware Court has been brought in an improper or inconvenient forum, or is subject (in whole or in part) to a jury trial. To the fullest extent permitted by law, the parties hereby agree that the mailing of process and other papers in connection with any such action or proceeding in the manner provided by Section 21 or in such other manner as may be permitted by law, shall be valid and sufficient service thereof.

23. **IDENTICAL COUNTERPARTS**. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same Agreement. Only one such counterpart signed by the party against whom enforceability is sought needs to be produced to evidence the existence of this Agreement.

24. **MISCELLANEOUS**. Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate. The headings of the paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

25. **PERIOD OF LIMITATIONS**. No legal action shall be brought and no cause of action shall be asserted by or in the right of the Company against Indemnitee, Indemnitee's spouse, heirs, executors or personal or legal representatives after the expiration of two years from the date of accrual of such cause of action, and any claim or cause of action of the Company shall be extinguished and deemed released unless asserted by the timely filing of a legal action within such two-year period; provided, however, that if any shorter period of limitations is otherwise applicable to any such cause of action such shorter period shall govern.

26. **ADDITIONAL ACTS**. If for the validation of any of the provisions in this Agreement any act, resolution, approval or other procedure is required to the fullest extent permitted by law, the Company undertakes to cause such act, resolution, approval or other procedure to be affected or adopted in a manner that will enable the Company to fulfill its obligations under this Agreement.

27. **MAINTENANCE OF INSURANCE**. The Company shall use commercially reasonable efforts to obtain and maintain in effect during the entire period for which the Company is obligated to indemnify the Indemnitee under this Agreement, one or more policies of insurance with reputable insurance companies to provide the officers/directors of the Company with coverage for losses from wrongful acts and omissions and to ensure the Company's performance of its indemnification obligations under this Agreement. The Indemnitee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for any such director or officer under such policy or policies. In all such insurance policies, the Indemnitee shall be named as an insured in such a manner as to provide the Indemnitee with the same rights and benefits as are accorded to the most favorably insured of the Company's directors and officers.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Indemnity Agreement to be signed as of the day and year first above written.

CONCRETE PUMPING HOLDINGS, INC.

By: _____
Name:
Title:

INDEMNITEE

By: _____
Name:
Address:

[Signature Page to Indemnity Agreement]

AmericasActive:12772155.5

Exhibit 10.38

CONCRETE PUMPING HOLDINGS, INC.
2018 OMNIBUS INCENTIVE PLAN

Section 1. General.

The name of the Plan is the Concrete Pumping Holdings, Inc. 2018 Omnibus Incentive Plan (the "*Plan*"). The Plan intends to: (*i*) encourage the profitability and growth of the Company through short-term and long-term incentives that are consistent with the Company's objectives; (*ii*) give Participants an incentive for excellence in individual performance; (*iii*) promote teamwork among Participants; and (*iv*) give the Company a significant advantage in attracting and retaining key Employees, Directors and Consultants. To accomplish such purposes, the Plan provides that the Company may grant Options, Stock Appreciation Rights, Restricted Shares, Restricted Stock Units, Performance-Based Awards (including performance-based Restricted Shares and Restricted Stock Units), Other Stock-Based Awards, Other Cash-Based Awards or any combination of the foregoing.

Section 2. Definitions.

For purposes of the Plan, the following terms shall be defined as set forth below:

(a) "*Administrator*" means the Board, or, if and to the extent the Board does not administer the Plan, the Committee appointed by the Board to administer the Plan in accordance with Section 3 of the Plan.

(b) "*Affiliate*" means a Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the Person specified. An entity shall be deemed an Affiliate of the Company for purposes of this definition only for such periods as the requisite ownership or control relationship is maintained.

(c) "*Articles of Incorporation*" means the articles of incorporation of the Company, as may be amended and/or restated from time to time.

(d) "*Automatic Exercise Date*" means, with respect to an Option or a Stock Appreciation Right, the last business day of the applicable term of the Option pursuant to Section 7(d) or the Stock Appreciation Right pursuant to Section 8(g).

(e) "*Award*" means any Option, Stock Appreciation Right, Restricted Share, Restricted Stock Unit, Performance-Based Award, Other Stock-Based Award or Other Cash-Based Award granted under the Plan.

(f) "*Award Agreement*" means any agreement, contract or other instrument or document evidencing an Award. Evidence of an Award may be in written or electronic form, may be limited to notation on the books and records of the Company and, with the approval of the Administrator, need not be signed by a representative of the Company or a Participant.

(g) "*Bylaws*" means the bylaws of the Company, as may be amended and/or restated from time to time.

(h) "*Beneficial Owner*" (or any variant thereof) has the meaning defined in Rule 13d-3 under the Exchange Act.

(i) "*Board*" means the Board of Directors of the Company.

(j) "*Cause*," with respect to any Participant, shall have the meaning assigned to such term in any Company or Company Affiliate employment, severance, or similar agreement or Award Agreement with the Participant or, if no such agreement exists or the agreement does not define "Cause," Cause means (*i*) any conduct, action or behavior by the Participant, whether or not in connection with the Participant's employment, including, without limitation, the commission of any felony or a lesser crime involving dishonesty, fraud, misappropriation, theft, wrongful taking of property, embezzlement, bribery, forgery, extortion or other crime of moral turpitude, that has or may reasonably be expected to have a material adverse effect on the reputation or business of the Company and its Subsidiaries and Affiliates or which results in gain or personal enrichment of the Participant to the detriment of the Company and its Subsidiaries and Affiliates; (*ii*) a governmental authority, including, without limitation, the Environmental Protection Agency or the Food and Drug Administration, has prohibited the Participant from working for or being affiliated with the Company and its Subsidiaries and Affiliates or the business conducted thereby; (*iii*) the commission of any act by the Participant of gross negligence or malfeasance, or any willful violation of law, in each case, in connection with the Participant's performance of his or her duties with the Company or a Subsidiary or Affiliate thereof; (*iv*) performance of the Participant's duties in an unsatisfactory manner after a written warning and a ten (10) day opportunity to cure or failure to observe material policies generally applicable to employees after a written warning and a ten (10) day opportunity to cure; (*v*) breach of the Participant's duty of loyalty to the Company Group; (*vi*) chronic absenteeism; (*vii*) substance abuse, illegal drug use or habitual insobriety; or (*viii*) violation of obligations of confidentiality to any third party in the course of providing services to the Company and its Subsidiaries and Affiliates.

(k) "*Change in Capitalization*" means any (*i*) merger, consolidation, reclassification, recapitalization, spin-off, spin-out, repurchase or other reorganization or corporate transaction or event, (*ii*) extraordinary dividend (whether in the form of cash, Common Stock or other property), stock split or reverse stock split, (*iii*) combination or exchange of shares, (*iv*) other change in corporate structure or (*v*) payment of any other distribution, which, in any such case, the Administrator determines, in its sole discretion, affects the Shares such that an adjustment pursuant to Section 5 of the Plan is appropriate.

(l) "*Change in Control*" shall be deemed to have occurred if an event set forth in any one of the following paragraphs shall have occurred following the Effective Date:

(i) any Person, other than the Company or a Subsidiary thereof, becomes the Beneficial Owner, directly or indirectly, of securities of the Company representing more than fifty percent (50%) of the combined voting power of the Company's then outstanding securities, excluding any Person who becomes such a Beneficial Owner in connection with a transaction described in clause (*A*) of paragraph (*iii*) below or any acquisition directly from the Company; or

(ii) the following individuals cease for any reason to constitute a majority of the number of Directors then serving on the Board: individuals who, during any period of two (2) consecutive years, constitute the Board and any new Director (other than a Director whose initial assumption of office is in connection with an actual or threatened election contest, including, but not limited to, a consent solicitation, relating to the election of Directors of the Company) whose appointment or election by the Board or nomination for election by the Company's stockholders was approved or recommended by a vote of at least two-thirds ($^2/_3$) of the Directors then still in office who either were Directors at the beginning of the two (2) year period or whose appointment, election or nomination for election was previously so approved or recommended; or

(iii) the consummation of a merger or consolidation of the Company or any Subsidiary thereof with any other corporation, other than a merger or consolidation (*A*) that results in the voting securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) at least fifty percent (50%) of the combined voting power of the voting securities of the Company (or such surviving entity or, if the Company or the entity surviving such merger is then a subsidiary, the ultimate parent thereof) outstanding immediately after such merger or consolidation, and (*B*) immediately following which the individuals who comprise the Board immediately prior thereto constitute at least a majority of the Board of the entity surviving such merger or consolidation or, if the Company or the entity surviving such merger is then a subsidiary, the ultimate parent thereof; or

(iv) the consummation of a plan of complete liquidation or dissolution of the Company or there is consummated an agreement for the sale or disposition by the Company of all or substantially all of the Company's assets, other than (*A*) a sale or disposition by the Company of all or substantially all of the Company's assets to an entity, at least fifty percent (50%) of the combined voting power of the voting securities of which are owned directly or indirectly by stockholders of the Company following the completion of such transaction in substantially the same proportions as their ownership of the Company immediately prior to such sale or (*B*) a sale or disposition of all or substantially all of the Company's assets immediately following which the individuals who comprise the Board immediately prior thereto constitute at least a majority of the board of directors of the entity to which such assets are sold or disposed or, if such entity is a subsidiary, the ultimate parent thereof.

For each Award that constitutes deferred compensation under Code Section 409A, a Change in Control (where applicable) shall be deemed to have occurred under the Plan with respect to such Award only if a change in the ownership or effective control of the Company or a change in ownership of a substantial portion of the assets of the Company also constitutes a "change in control event" under Code Section 409A.

Notwithstanding the foregoing, a "Change in Control" shall not be deemed to have occurred by virtue of the consummation of any transaction or series of integrated transactions immediately following which the holders of Common Stock immediately prior to such transaction or series of transactions continue to have substantially the same proportionate ownership in an entity which owns all or substantially all of the assets of the Company immediately following such transaction or series of transactions.

(m) "*Change in Control Price*" shall have the meaning set forth in Section 12 of the Plan.

(n) "*Code*" means the Internal Revenue Code of 1986, as amended from time to time, or any successor thereto. Any reference in the Plan to any section of the Code shall be deemed to include any regulations or other interpretative guidance under such section, and any amendments or successor provisions to such section, regulations or guidance.

(o) "*Committee*" means any committee or subcommittee the Board may appoint to administer the Plan. Subject to the discretion of the Board, the Committee shall be composed entirely of individuals who meet the qualifications of a "non-employee director" within the meaning of Rule 16b-3 under the Exchange Act and any other qualifications required by the applicable stock exchange on which the Common Stock is traded. If at any time or to any extent the Board shall not administer the Plan, then the functions of the Administrator specified in the Plan shall be exercised by the Committee. Except as otherwise provided in the Company's Articles of Incorporation or Bylaws, or any charter establishing the Committee, any action of the Committee with respect to the administration of the Plan shall be taken by a majority vote at a meeting at which a quorum is duly constituted or unanimous written consent of the Committee's members.

(p) "*Common Stock*" means the common stock, par value $0.0001 per share, of the Company.

(q) "*Company*" means Concrete Pumping Holdings, Inc., a Delaware corporation (or any successor corporation, except as the term "Company" is used in the definition of "Change in Control" above).

(r) *"Consultant"* means any consultant or independent contractor of the Company or an Affiliate thereof, in each case, who is not an Employee, Executive Officer or non-employee Director.

(s) "*Disability*," with respect to any Participant, shall have the meaning assigned to such term in any individual employment, severance or similar agreement or Award Agreement with the Participant or, if no such agreement exists or the agreement does not define "Disability," Disability means that such Participant (*i*) is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months, or (*ii*) is, by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months, receiving income replacement benefits for a period of not less than three (3) months under an accident and health plan covering Employees of the Company or an Affiliate thereof.

(t) "*Director*" means any individual who is a member of the Board on or after the Effective Date.

(u) "*Effective Date*" shall have the meaning set forth in Section 19 of the Plan.

(v) "*Eligible Recipient*" means: (*i*) an Employee; (*ii*) a non-employee Director; or (*iii*) a Consultant, in each case, who has been selected as an eligible recipient under the Plan by the Administrator. Notwithstanding the foregoing, to the extent required to avoid the imposition of additional taxes under Code Section 409A, "*Eligible Recipient*" means: an (*1*) Employee; (*2*) a non-employee Director; or (*3*) a Consultant, in each case, of the Company or a Subsidiary thereof, who has been selected as an eligible recipient under the Plan by the Administrator.

(w) "*Employee*" shall mean an employee of the Company or an Affiliate thereof (which, for purposes of Incentive Stock Options, shall mean "parent" or "subsidiary" as described in Treasury Regulation Section 1.421-1(h)), including an Executive Officer or Director who is also an employee.

(x) "*Exchange Act*" means the Securities Exchange Act of 1934, as amended from time to time.

(y) *"Executive Officer"* means each Participant who is an executive officer (within the meaning of Rule 3b-7 under the Exchange Act) of the Company.

(z) "*Exercise Price*" means, with respect to any Award under which the holder may purchase Shares, the price per share at which a holder of such Award granted hereunder may purchase Shares issuable upon exercise of such Award.

(aa) "*Fair Market Value*" as of a particular date shall mean: (*i*) if the Common Stock is admitted to trading on a national securities exchange, the fair market value of a Share on any date shall be the closing sale price reported for such share on such exchange on such date or, if no sale was reported on such date, on the last day preceding such date on which a sale was reported; (*ii*) if the Shares are not then listed on a national securities exchange, the average of the highest reported bid and lowest reported asked prices for the Shares as reported by the National Association of Securities Dealers, Inc. Automated Quotations System or such other quotation system for the last preceding date on which there was a sale of such stock ; or (*iii*) if the Shares are not then listed on a national securities exchange or traded in an over-the-counter market or the value of such Shares is not otherwise determinable, such value as determined by the Committee in good faith and in a manner consistent with Code Section 409A.

(bb) "*Free Standing Rights*" shall have the meaning set forth in Section 8(a) of the Plan.

(cc) "*Incentive Stock Option*" means an Option that is intended to satisfy the requirements applicable to an "incentive stock option" described in Code Section 422.

(dd) "*Nonqualified Stock Option*" means an Option that is not an Incentive Stock Option.

(ee) "*Option*" means an option to purchase Shares granted pursuant to Section 7 of the Plan.

(ff) "*Other Cash-Based Award*" means a cash Award granted to a Participant under Section 11 of the Plan, including cash awarded as a bonus or upon the attainment of Performance Goals or otherwise as permitted under the Plan.

(gg) "*Other Stock-Based Award*" means a right or other interest granted to a Participant under the Plan that may be denominated or payable in, valued in whole or in part by reference to, or otherwise based on or related to, Common Stock, including, but not limited to, unrestricted Shares or dividend equivalents, each of which may be subject to the attainment of Performance Goals or a period of continued employment or other terms or conditions as permitted under the Plan.

(hh) "*Participant*" means any Eligible Recipient selected by the Administrator, pursuant to the Administrator's authority provided for in Section 3 of the Plan, to receive grants of Options, Stock Appreciation Rights, Restricted Shares, Restricted Stock Units, Other Stock-Based Awards, Other Cash-Based Awards or any combination of the foregoing, and, upon his or her death, his or her successors, heirs, executors and administrators, as the case may be, solely with respect to any Awards outstanding at the date of the Eligible Recipient's death.

(ii) "*Performance-Based Award*" means any Award granted under the Plan that is subject to one or more performance goals. Any dividends or dividend equivalents payable or credited to a Participant with respect to any unvested Performance-Based Award shall be subject to the same performance goals as the Shares or units underlying the Performance-Based Award.

(jj) "*Performance Goals*" means performance goals based on one or more of the following criteria (or such other criteria as the Administrator may determine): (*i*) earnings before interest and taxes; (*ii*) earnings before interest, taxes, depreciation and amortization; (*iii*) net operating profit after tax; (*iv*) cash flow; (*v*) revenue; (*vi*) net revenues; (*vii*) sales; (*viii*) days sales outstanding; (*ix*) scrap rates; (*x*) income; (*xi*) net income; (*xii*) operating income; (*xiii*) net operating income; (*xiv*) operating margin; (*xv*) earnings; (*xvi*) earnings per share; (*xvii*) return on equity; (*xviii*) return on investment; (*xix*) return on capital; (*xx*) return on assets; (*xxi*) return on net assets; (*xxii*) total shareholder return; (*xxiii*) economic profit; (*xxiv*) market share; (*xxv*) appreciation in the fair market value, book value or other measure of value of the Company's Common Stock; (*xxvi*) expense or cost control; (*xxvii*) working capital; (*xxviii*) volume or production; (*xxix*) new products; (*xxx*) customer satisfaction; (*xxxi*) brand development; (*xxxii*) employee retention or employee turnover; (*xxxiii*) employee satisfaction or engagement; (*xxxiv*) environmental, health or other safety goals; (*xxxv*) individual performance; (*xxxvi*) strategic objective milestones; (*xxxvii*) days inventory outstanding; and (*xxxviii*) any combination of, or as applicable, a specified increase or decrease in, any of the foregoing. Where applicable, the Performance Goals may be expressed in terms of attaining a specified level of the particular criteria or the attainment of a percentage increase or decrease in the particular criteria, and may be applied to one or more of the Company or an Affiliate thereof, or a division or strategic business unit of the Company, or may be applied to the performance of the Company relative to a market index, a group of other companies or a combination thereof, all as determined by the Committee. The Performance Goals may include a threshold level of performance below which no payment shall be made (or no vesting shall occur), levels of performance at which specified payments shall be made (or specified vesting shall occur), and a maximum level of performance above which no additional payment shall be made (or at which full vesting shall occur).

(kk) "*Person*" shall have the meaning given in Section 3(a)(9) of the Exchange Act, as modified and used in Sections 13(d) and 14(d) thereof, except that such term shall not include (*i*) a trustee or other fiduciary holding securities under an employee benefit plan of the Company or any Subsidiary thereof, (*ii*) an underwriter temporarily holding securities pursuant to an offering of such securities, or (*iii*) a corporation owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their ownership of stock of the Company.

(ll) "*Related Rights*" shall have the meaning set forth in Section 8(a) of the Plan.

(mm) "*Restricted Shares*" means an Award of Shares granted pursuant to Section 9 of the Plan subject to certain restrictions that lapse at the end of a specified period or periods.

(nn) "*Restricted Stock Unit*" means a notional account established pursuant to an Award granted to a Participant, as described in Section 10 of the Plan, that is (*i*) valued solely by reference to Shares, (*ii*) subject to restrictions specified in the Award Agreement, and (*iii*) payable in cash or in Shares (as specified in the Award Agreement). The Restricted Stock Units awarded to the Participant will vest according to the time-based criteria or performance goal criteria specified in the Award Agreement.

(oo) "*Restricted Period*" means the period of time determined by the Administrator during which an Award or a portion thereof is subject to restrictions or, as applicable, the period of time within which performance is measured for purposes of determining whether an Award has been earned.

(pp) "*Retirement*" means a termination of a Participant's employment, other than for Cause and other than by reason of death or Disability, on or after the attainment of age 65.

(qq) "*Rule 16b-3*" shall have the meaning set forth in Section 3(a) of the Plan.

(rr) "*Shares*" means shares of Common Stock reserved for issuance under the Plan, as adjusted pursuant to the Plan, and any successor (pursuant to a merger, consolidation or other reorganization) security.

(ss) "*Stock Appreciation Right*" means the right pursuant to an Award granted under Section 8 of the Plan to receive an amount equal to the excess, if any, of (*i*) the aggregate Fair Market Value, as of the date such Award or portion thereof is surrendered, of the Shares covered by such Award or such portion thereof, over (*ii*) the aggregate Exercise Price of such Award or such portion thereof.

(tt) "*Subsidiary*" means, with respect to any Person, as of any date of determination, any other Person as to which such first Person owns or otherwise controls, directly or indirectly, more than fifty percent (50%) of the voting shares or other similar interests or a sole general partner interest or managing member or similar interest of such other Person. An entity shall be deemed a Subsidiary of the Company for purposes of this definition only for such periods as the requisite ownership or control relationship is maintained. Notwithstanding the foregoing, in the case of an Incentive Stock Option or any determination relating to an Incentive Stock Option, "*Subsidiary*" means a corporation that is a subsidiary of the Company within the meaning of Code Section 424(f).

(uu) "*Substitute Award"* shall mean an Award granted under the Plan upon the assumption of, or in substitution for, outstanding equity awards granted by a company or other entity in connection with a corporate transaction, such as a merger, combination, consolidation, or acquisition of property or stock; provided, however, that in no event shall the term "Substitute Award" be construed to refer to an award made in connection with the cancellation and repricing of an Option or Stock Appreciation Right.

Section 3. Administration.

(a) The Plan shall be administered by the Administrator and shall be administered in accordance with, to the extent applicable, Rule 16b-3 under the Exchange Act ("*Rule 16b-3*").

(b) Pursuant to the terms of the Plan, the Administrator, subject, in the case of any Committee, to any restrictions on the authority delegated to it by the Board, shall have the power and authority, without limitation:

(i) to select those Eligible Recipients who shall be Participants;

(ii) to determine whether and to what extent Options, Stock Appreciation Rights, Restricted Shares, Restricted Stock Units, Other Stock-Based Awards, Other Cash-Based Awards or a combination of any of the foregoing, are to be granted hereunder to Participants;

(iii) to determine the number of Shares to be covered by each Award granted hereunder;

(iv) to determine the terms and conditions, not inconsistent with the terms of the Plan, of each Award granted hereunder, including, but not limited to, (*A*) the restrictions applicable to Awards and the conditions under which restrictions applicable to such Awards shall lapse, (*B*) the Performance Goals and performance periods applicable to Awards, if any, (*C*) the Exercise Price of each Award, (*D*) the vesting schedule applicable to each Award, (*E*) the number of Shares subject to each Award and (*F*) subject to the requirements of Code Section 409A (to the extent applicable), any amendments to the terms and conditions of outstanding Awards, including, but not limited to, extending the exercise period of such Awards and accelerating the vesting schedule of such Awards;

(v) to determine the terms and conditions, not inconsistent with the terms of the Plan, which shall govern all written instruments evidencing Options, Stock Appreciation Rights, Restricted Shares, Restricted Stock Units or Other Stock-Based Awards, Other Cash-Based Awards or any combination of the foregoing granted hereunder;

(vi) to determine the Fair Market Value;

(vii) to determine the duration and purpose of leaves of absence which may be granted to a Participant without constituting termination of the Participant's employment for purposes of Awards granted under the Plan;

(viii) to adopt, alter and repeal such administrative rules, guidelines and practices governing the Plan as it shall from time to time deem advisable;

(ix) to reconcile any inconsistency in, correct any defect in and/or supply any omission in the Plan, any Award Agreement or other instrument or agreement relating to the Plan or an Award granted under the Plan; and

(x) to construe and interpret the terms and provisions of the Plan and any Award issued under the Plan (and any Award Agreement relating thereto), and to otherwise supervise the administration of the Plan and to exercise all powers and authorities either specifically granted under the Plan or necessary and advisable in the administration of the Plan.

(c) All decisions made by the Administrator pursuant to the provisions of the Plan shall be final, conclusive and binding on all persons, including the Company and the Participants. No member of the Board or the Committee, or any officer or employee of the Company or any Subsidiary thereof acting on behalf of the Board or the Committee, shall be personally liable for any action, omission, determination, or interpretation taken or made in good faith with respect to the Plan, and all members of the Board or the Committee and each and any officer or employee of the Company and of any Subsidiary thereof acting on their behalf shall, to the maximum extent permitted by law, be fully indemnified and protected by the Company in respect of any such action, omission, determination or interpretation.

Section 4. Shares Reserved for Issuance Under the Plan.

(a) Subject to Section 5 of the Plan, the number of Shares that are reserved and available for issuance pursuant to Awards granted under the Plan is 7,700,000 shares of Common Stock. The maximum number of Shares that may be issued pursuant to Options intended to be Incentive Stock Options is 7,700,000 shares of Common Stock.

(b) Notwithstanding the foregoing, compensation paid to a non-employee Director, including cash fees and Awards under the Plan (based on the grant date Fair Market Value of such Awards for financial reporting purposes), shall not exceed $450,000 per fiscal year in respect of his or her service as a Director.

(c) Shares issued under the Plan may, in whole or in part, be authorized but unissued Shares or Shares that shall have been or may be reacquired by the Company in the open market, in private transactions or otherwise. Any Shares subject to an Award under the Plan that, after the Effective Date, are forfeited, canceled, settled or otherwise terminated without a distribution of Shares to a Participant will thereafter be deemed to be available for Awards. In applying the immediately preceding sentence, if (*i*) Shares otherwise issuable or issued in respect of, or as part of, any Award are withheld to cover taxes, such Shares shall be treated as having been issued under the Plan and shall not again be available for issuance under the Plan, (*ii*) Shares otherwise issuable or issued in respect of, or as part of, any Award of Options or Stock Appreciation Rights are withheld to cover the Exercise Price, such Shares shall be treated as having been issued under the Plan and shall not again be available for issuance under the Plan, and (*iii*) any Stock-settled Stock Appreciation Rights are exercised, the aggregate number of Shares subject to such Stock Appreciation Rights shall be deemed issued under the Plan and shall not again be available for issuance under the Plan.

(d) Substitute Awards shall not reduce the Shares authorized for grant under the Plan. In the event that a company acquired by the Company or any Affiliate or with which the Company or any Affiliate combines has shares available under a pre-existing plan approved by stockholders and not adopted in contemplation of such acquisition or combination, the shares available for grant pursuant to the terms of such pre-existing plan (as adjusted, to the extent appropriate, using the exchange ratio or other adjustment or valuation ratio or formula used in such acquisition or combination to determine the consideration payable to the holders of common stock of the entities party to such acquisition or combination) may be used for Awards under the Plan and shall not reduce the Shares authorized for grant under the Plan; *provided* that Awards using such available Shares shall not be made after the date awards or grants could have been made under the terms of the pre-existing plan, absent the acquisition or combination, and shall only be made to individuals who were not employed by or providing services to the Company or its Affiliates immediately prior to such acquisition or combination.

(e) Any Shares that become deliverable to a Participant pursuant to the Plan may be issued in certificate form in the name of the Participant or in book-entry form in the name of the Participant.

Section 5. Equitable Adjustments.

In the event of any Change in Capitalization, an equitable substitution or proportionate adjustment shall be made, in each case, as may be determined by the Administrator, in its sole discretion, in (*i*) the aggregate number of Shares reserved for issuance under the Plan, (*ii*) the kind and number of securities and Exercise Price subject to outstanding Options and Stock Appreciation Rights granted under the Plan, *provided, however*, that any such substitution or adjustment with respect to Options and Stock Appreciation Rights shall occur in accordance with the requirements of Code Section 409A, and (*iii*) the kind and number of securities and purchase price (if applicable) with respect to outstanding Restricted Shares or Other Stock-Based Awards granted under the Plan, in each case as may be determined by the Administrator, in its sole discretion; *provided*, *however*, that any fractional Shares resulting from the adjustment shall be eliminated. Such other equitable substitutions or adjustments shall be made as may be determined by the Administrator, in its sole discretion. Without limiting the generality of the foregoing, in connection with a Change in Capitalization, the Administrator may provide, in its sole discretion, for the cancellation of any outstanding Award granted hereunder in exchange for payment in cash or other property having an aggregate Fair Market Value of the Shares covered by such Award, reduced by the aggregate Exercise Price or purchase price thereof, if any. Notwithstanding anything contained in the Plan to the contrary, any adjustment with respect to an Incentive Stock Option due to an adjustment or substitution described in this Section 5 shall comply with the rules of Code Section 424(a), and in no event shall any adjustment be made which would render any Incentive Stock Option granted hereunder to be disqualified as an incentive stock option for purposes of Code Section 422. The Administrator's determinations pursuant to this Section 5 shall be final, binding and conclusive.

Section 6. Eligibility.

The Participants under the Plan shall be selected from time to time by the Administrator, in its sole discretion, from among Eligible Recipients.

Section 7. Options.

(a) *General.* The Committee may, in its sole discretion, grant Options to Participants. Solely with respect to Participants who are Employees, the Committee may grant Incentive Stock Options, Nonqualified Stock Options or a combination of both. With respect to all other Participants, the Committee may grant only Nonqualified Stock Options. Each Participant who is granted an Option shall enter into an Award Agreement with the Company, containing such terms and conditions as the Administrator shall determine, in its sole discretion, which Award Agreement shall specify whether the Option is an Incentive Stock Option or a Nonqualified Stock Option and shall set forth, among other things, the Exercise Price of the Option, the term of the Option and provisions regarding exercisability of the Option granted thereunder. The provisions of each Option need not be the same with respect to each Participant. More than one Option may be granted to the same Participant and be outstanding concurrently hereunder. Options granted under the Plan shall be subject to the terms and conditions set forth in this Section 7 and shall contain such additional terms and conditions, not inconsistent with the terms of the Plan, as the Administrator shall deem desirable and set forth in the applicable Award Agreement. The prospective recipient of an Option shall not have any rights with respect to such Award, unless and until such recipient has received an Award Agreement and, if required by the Administrator in the Award Agreement, executed and delivered a fully executed copy thereof to the Company, within a period of sixty (60) days (or such other period as the Administrator may specify) after the award date.

(b) *Limits on Incentive Stock Options*. If the Administrator grants Incentive Stock Options, then to the extent that the aggregate fair market value of Shares with respect to which Incentive Stock Options are exercisable for the first time by any individual during any calendar year (under all plans of the Company) exceeds $100,000, such Options will be treated as Nonqualified Stock Options to the extent required by Code Section 422.

(c) *Exercise Price.* The Exercise Price of Shares purchasable under an Option shall be determined by the Administrator in its sole discretion at the time of grant; *provided, however*, that (*i*) in no event shall the Exercise Price of an Incentive Stock Option be less than one hundred percent (100%) of the Fair Market Value of the Common Stock on the date of grant, and (*ii*) no Incentive Stock Option granted to a ten percent (10%) stockholder of the Company's Common Stock (within the meaning of Code Section 422(b)(6)) shall have an exercise price per share less than one-hundred ten percent (110%) of the Fair Market Value of a Share on such date.

(d) *Option Term.* The maximum term of each Option shall be fixed by the Administrator, but in no event shall (*i*) an Option be exercisable more than ten (10) years after the date such Option is granted, and (*ii*) an Incentive Stock Option granted to a ten percent (10%) stockholder of the Company's Common Stock (within the meaning of Code Section 422(b)(6)) be exercisable more than five (5) years after the date such Option is granted. Each Option's term is subject to earlier expiration pursuant to the applicable provisions in the Plan and the Award Agreement. Notwithstanding the foregoing, the Administrator shall have the authority to accelerate the exercisability of any outstanding Option at such time and under such circumstances as the Administrator, in its sole discretion, deems appropriate. Notwithstanding any contrary provision herein, if, on the date an outstanding Option would expire, the exercise of the Option, including by a "net exercise" or "cashless" exercise, would violate applicable securities laws or any insider trading policy maintained by the Company from time to time, the expiration date applicable to the Option will be extended, except to the extent such extension would violate Section 409A, to a date that is thirty (30) calendar days after the date the exercise of the Option would no longer violate applicable securities laws or any such insider trading policy.

(e) *Exercisability.* Each Option shall be exercisable at such time or times and subject to such terms and conditions, including the attainment of pre-established Performance Goals, as shall be determined by the Administrator in the applicable Award Agreement. The Administrator may also provide that any Option shall be exercisable only in installments, and the Administrator may waive such installment exercise provisions at any time, in whole or in part, based on such factors as the Administrator may determine in its sole discretion. Notwithstanding anything to the contrary contained herein, an Option may not be exercised for a fraction of a share.

(f) *Method of Exercise.* Options may be exercised in whole or in part by giving written notice of exercise to the Company specifying the number of Shares to be purchased, accompanied by payment in full of the aggregate Exercise Price of the Shares so purchased in cash or its equivalent, as determined by the Administrator. As determined by the Administrator, in its sole discretion, with respect to any Option or category of Options, payment in whole or in part may also be made (*i*) by means of consideration received under any cashless exercise procedure approved by the Administrator (including the withholding of Shares otherwise issuable upon exercise), (*ii*) in the form of unrestricted Shares already owned by the Participant which have a Fair Market Value on the date of surrender equal to the aggregate Exercise Price of the Shares as to which such Option shall be exercised, (*iii*) any other form of consideration approved by the Administrator and permitted by applicable law or (*iv*) any combination of the foregoing. In determining which methods a Participant may utilize to pay the Exercise Price, the Administrator may consider such factors as it determines are appropriate; *provided, however*, that with respect to Incentive Stock Options, all such discretionary determinations shall be made by the Administrator at the time of grant and specified in the Award Agreement.

(g) *Rights as Stockholder.* A Participant shall have no rights to dividends or any other rights of a stockholder with respect to the Shares subject to an Option until the Participant has given written notice of the exercise thereof, has paid in full for such Shares and has satisfied the requirements of Section 15 of the Plan and the Shares have been issued to the Participant.

(h) *Termination of Employment or Service.*

(i) Unless the applicable Award Agreement provides otherwise, in the event that the employment or service of a Participant with the Company and all Affiliates thereof shall terminate for any reason other than Cause, Retirement, Disability, or death, (*A*) Options granted to such Participant, to the extent that they are exercisable at the time of such termination, shall remain exercisable until the date that is ninety (90) days after such termination, on which date they shall expire, and (*B*) Options granted to such Participant, to the extent that they were not exercisable at the time of such termination, shall expire at the close of business on the date of such termination. The ninety (90) day period described in this Section 7(h)(i) shall be extended to one (1) year after the date of such termination in the event of the Participant's death during such ninety (90) day period. Notwithstanding the foregoing, no Option shall be exercisable after the expiration of its term.

(ii) Unless the applicable Award Agreement provides otherwise, in the event that the employment or service of a Participant with the Company and all Affiliates thereof shall terminate on account of Retirement, Disability or the death of the Participant, (*A*) Options granted to such Participant, to the extent that they were exercisable at the time of such termination, shall remain exercisable until the date that is one (1) year after such termination, on which date they shall expire and (*B*) Options granted to such Participant, to the extent that they were not exercisable at the time of such termination, shall expire at the close of business on the date of such termination. Notwithstanding the foregoing, no Option shall be exercisable after the expiration of its term.

(iii) In the event of the termination of a Participant's employment or service for Cause, all outstanding Options granted to such Participant shall expire at the commencement of business on the date of such termination.

(iv) For purposes of this Section 7(h), Options that are not exercisable solely due to a blackout period shall be considered exercisable.

(i) *Other Change in Employment Status.* An Option may be affected, both with regard to vesting schedule and termination, by

leaves of absence, changes from full-time to part-time employment, partial disability or other changes in the employment status or service of a Participant, as evidenced in a Participant's Award Agreement.

(j) *Change in Control.* Notwithstanding anything herein to the contrary, upon a Change in Control, all outstanding Options shall be subject to Section 12 of the Plan.

Section 8. Stock Appreciation Rights.

(a) *General.* Stock Appreciation Rights may be granted either alone ("*Free Standing Rights*") or in conjunction with all or part of any Option granted under the Plan ("*Related Rights*"). Related Rights may be granted either at or after the time of the grant of such Option. The Administrator shall determine the Eligible Recipients to whom, and the time or times at which, grants of Stock Appreciation Rights shall be made, the number of Shares to be awarded, the price per Share, and all other conditions of Stock Appreciation Rights. Notwithstanding the foregoing, no Related Right may be granted for more Shares than are subject to the Option to which it relates and any Stock Appreciation Right must be granted with an Exercise Price not less than the Fair Market Value of Common Stock on the date of grant. The provisions of Stock Appreciation Rights need not be the same with respect to each Participant. Stock Appreciation Rights granted under the Plan shall be subject to the following terms and conditions set forth in this Section 8 and shall contain such additional terms and conditions, not inconsistent with the terms of the Plan, as the Administrator shall deem desirable, as set forth in the applicable Award Agreement.

(b) *Awards; Rights as Stockholder.* The prospective recipient of a Stock Appreciation Right shall not have any rights with respect to such Award, unless and until such recipient has received an Award Agreement and, if required by the Administrator in the Award Agreement, executed and delivered a fully executed copy thereof to the Company, within a period of sixty (60) days (or such other period as the Administrator may specify) after the award date.

(c) *Exercisability.*

(i) Stock Appreciation Rights that are Free Standing Rights shall be exercisable at such time or times and subject to such terms and conditions as shall be determined by the Administrator in the applicable Award Agreement.

(ii) Stock Appreciation Rights that are Related Rights shall be exercisable only at such time or times and to the extent that the Options to which they relate shall be exercisable in accordance with the provisions of Section 7 above and this Section 8 of the Plan.

(d) *Payment Upon Exercise.*

(i) Upon the exercise of a Free Standing Right, the Participant shall be entitled to receive up to, but not more than, that number of Shares, determined using the Fair Market Value, equal in value to the excess of the Fair Market Value as of the date of exercise over the price per share specified in the Free Standing Right multiplied by the number of Shares in respect of which the Free Standing Right is being exercised.

(ii) A Related Right may be exercised by a Participant by surrendering the applicable portion of the related Option. Upon such exercise and surrender, the Participant shall be entitled to receive up to, but not more than, that number of Shares, determined using the Fair Market Value, equal in value to the excess of the Fair Market Value as of the date of exercise over the Exercise Price specified in the related Option multiplied by the number of Shares in respect of which the Related Right is being exercised. Options which have been so surrendered, in whole or in part, shall no longer be exercisable to the extent the Related Rights have been so exercised.

(iii) Notwithstanding the foregoing, the Administrator may determine to settle the exercise of a Stock Appreciation Right in cash (or in any combination of Shares and cash).

(e) *Rights as Stockholder.* A Participant shall have no rights to dividends or any other rights of a stockholder with respect to the Shares subject to a Stock Appreciation Right until the Participant has given written notice of the exercise thereof, has satisfied the requirements of Section 15 of the Plan and the Shares have been issued to the Participant.

(f) *Termination of Employment or Service.*

(i) In the event of the termination of employment or service with the Company and all Affiliates thereof of a Participant who has been granted one or more Free Standing Rights, such rights shall be exercisable at such time or times and subject to such terms and conditions as shall be determined by the Administrator in the applicable Award Agreement.

(ii) In the event of the termination of employment or service with the Company and all Affiliates thereof of a Participant who has been granted one or more Related Rights, such rights shall be exercisable at such time or times and subject to such terms and conditions as set forth in the related Options.

(g) *Term.*

(i) The term of each Free Standing Right shall be fixed by the Administrator, but no Free Standing Right shall be exercisable more than ten (10) years after the date such right is granted.

(ii) The term of each Related Right shall be the term of the Option to which it relates, but no Related Right shall be exercisable more than ten (10) years after the date such right is granted.

(h) *Change in Control.* Notwithstanding anything herein to the contrary, upon a Change in Control, all outstanding Stock Appreciation Rights shall be subject to Section 12 of the Plan.

(i) *Automatic Exercise.* Unless otherwise provided by the Administrator in an Award Agreement or otherwise, or as otherwise directed by the Participant in writing to the Company, each vested and exercisable Stock Appreciation Right outstanding on the Automatic Exercise Date with an Exercise Price per Share that is less than the Fair Market Value per Share as of such date shall automatically and without further action by the Participant or the Company be exercised on the Automatic Exercise Date. The Company or any Affiliate shall deduct or withhold an amount sufficient to satisfy all taxes associated with such exercise in accordance with Section 15. Unless otherwise determined by the Administrator, this Section 8(i) shall not apply to a Stock Appreciation Right if the Participant's employment or service has terminated on or before the Automatic Exercise Date. For the avoidance of doubt, no Stock Appreciation Right with an Exercise Price per Share that is equal to or greater the Fair Market Value per Share on the Automatic Exercise Date shall be exercised pursuant to this Section 8(i).

Section 9. Restricted Shares.

(a) *General.* Restricted Shares may be issued either alone or in addition to other Awards granted under the Plan. The Administrator shall determine the Eligible Recipients to whom, and the time or times at which, grants of Restricted Shares shall be made; the number of Shares to be awarded; the price, if any, to be paid by the Participant for the acquisition of Restricted Shares; the Restricted Period, if any, applicable to Restricted Shares; the Performance Goals (if any) applicable to Restricted Shares; and all other conditions of the Restricted Shares. If the restrictions, Performance Goals and/or conditions established by the Administrator are not attained, a Participant shall forfeit his or her Restricted Shares in accordance with the terms of the grant. The provisions of the Restricted Shares need not be the same with respect to each Participant.

(b) *Awards and Certificates.* The prospective recipient of Restricted Shares shall not have any rights with respect to any such Award, unless and until such recipient has received an Award Agreement and, if required by the Administrator in the Award Agreement, executed and delivered a fully executed copy thereof to the Company, within a period of sixty (60) days (or such other period as the Administrator may specify) after the award date. Except as otherwise provided in Section 9(c) of the Plan, (*i*) each Participant who is granted an award of Restricted Shares may, in the Company's sole discretion, be issued a stock certificate in respect of such Restricted Shares; and (*ii*) any such certificate so issued shall be registered in the name of the Participant, and shall bear an appropriate legend referring to the terms, conditions, and restrictions applicable to any such Award.

The Company may require that the stock certificates, if any, evidencing Restricted Shares granted hereunder be held in the custody of the Company until the restrictions thereon shall have lapsed, and that, as a condition of any award of Restricted Shares, the Participant shall have delivered a stock power, endorsed in blank, relating to the Shares covered by such Award.

Notwithstanding anything in the Plan to the contrary, any Restricted Shares (whether before or after any vesting conditions have been satisfied) may, in the Company's sole discretion, be issued in uncertificated form pursuant to the customary arrangements for issuing shares in such form.

(c) *Restrictions and Conditions.* The Restricted Shares granted pursuant to this Section 9 shall be subject to the following restrictions and conditions and any additional restrictions or conditions as determined by the Administrator at the time of grant or thereafter:

(i) The Administrator may, in its sole discretion, provide for the lapse of restrictions in installments and may accelerate or waive such restrictions in whole or in part based on such factors and such circumstances as the Administrator may determine, in its sole discretion, including, but not limited to, the attainment of certain Performance Goals, the Participant's termination of employment or service as a non-employee Director or Consultant of the Company or an Affiliate thereof, or the Participant's death or Disability.

(ii) Except as provided in Section 16 of the Plan or in the Award Agreement, the Participant shall generally have the rights of a stockholder of the Company with respect to Restricted Shares during the Restricted Period. Unless otherwise determined by the Administrator in its discretion, Participants will be entitled to vote Restricted Shares. In the Administrator's discretion and as provided in the applicable Award Agreement, a Participant may receive dividends or dividend equivalents on an Award of Restricted Shares, which will be payable in accordance with the terms of such grant as determined by the Administrator. Certificates for Shares of unrestricted Common Stock may, in the Company's sole discretion, be delivered to the Participant only after the Restricted Period has expired without forfeiture in respect of such Restricted Shares, except as the Administrator, in its sole discretion, shall otherwise determine.

(iii) The rights of Participants granted Restricted Shares upon termination of employment or service as a non-employee Director or Consultant of the Company or an Affiliate thereof terminates for any reason during the Restricted Period shall be set forth in the Award Agreement.

(d) *Change in Control.* Notwithstanding anything herein to the contrary, upon a Change in Control, all outstanding Restricted Shares shall be subject to Section 12 of the Plan.

Section 10. Restricted Stock Units.

(a) *General.* Restricted Stock Units may be issued either alone or in addition to other Awards granted under the Plan. The Administrator shall determine the Eligible Recipients to whom, and the time or times at which, grants of Restricted Stock Units shall be made; the number of Restricted Stock Units to be awarded; the Restricted Period, if any, applicable to Restricted Stock Units; the Performance Goals (if any) applicable to Restricted Stock Units; and all other conditions of the Restricted Stock Units. If the restrictions, Performance Goals and/or conditions established by the Administrator are not attained, a Participant shall forfeit his or her Restricted Stock Units in accordance with the terms of the grant. The provisions of Restricted Stock Units need not be the same with respect to each Participant.

(b) *Award Agreement.* The prospective recipient of Restricted Stock Units shall not have any rights with respect to any such Award, unless and until such recipient has received an Award Agreement and, if required by the Administrator in the Award Agreement, executed and delivered a fully executed copy thereof to the Company, within a period of sixty (60) days (or such other period as the Administrator may specify) after the award date.

(c) *Restrictions and Conditions.* The Restricted Stock Units granted pursuant to this Section 10 shall be subject to the following restrictions and conditions and any additional restrictions or conditions as determined by the Administrator at the time of grant or, subject to Code Section 409A, thereafter:

(i) The Administrator may, in its sole discretion, provide for the lapse of restrictions in installments and may accelerate or waive such restrictions in whole or in part based on such factors and such circumstances as the Administrator may determine, in its sole discretion, including, but not limited to, the attainment of certain Performance Goals, the Participant's termination of employment or service as a non-employee Director or Consultant of the Company or an Affiliate thereof, or the Participant's death or Disability.

(ii) Participants holding Restricted Stock Units shall have no voting rights. A Restricted Stock Unit may, at the Administrator's discretion, carry with it a right to dividend equivalents. Such right would entitle the holder to be credited with an amount equal to all cash dividends paid on one Share while the Restricted Stock Unit is outstanding. The Administrator, in its discretion, may grant dividend equivalents from the date of grant or only after a Restricted Stock Unit is vested.

(iii) The rights of Participants granted Restricted Stock Units upon termination of employment or service as a non-employee Director or Consultant of the Company or an Affiliate thereof terminates for any reason during the Restricted Period shall be set forth in the Award Agreement.

(d) *Settlement of Restricted Stock Units*. Settlement of vested Restricted Stock Units shall be made to Participants in the form of Shares, unless the Administrator, in its sole discretion, provides for the payment of the Restricted Stock Units in cash (or partly in cash and partly in Shares) equal to the Fair Market Value of the Shares that would otherwise be distributed to the Participant.

(e) *Rights as Stockholder***.** Except as provided in the Award Agreement in accordance with Section 10(c)(ii), a Participant shall have no rights to dividends or any other rights of a stockholder with respect to the Shares subject to Restricted Stock Units until the Participant has satisfied all conditions of the Award Agreement and the requirements of Section 15 of the Plan and the Shares have been issued to the Participant.

(f) *Change in Control.* Notwithstanding anything herein to the contrary, upon a Change in Control, all outstanding Restricted Stock Units shall be subject to Section 12 of the Plan.

Section 11. Other Stock-Based or Cash-Based Awards.

(a) The Administrator is authorized to grant Awards to Participants in the form of Other Stock-Based Awards or Other Cash-Based Awards, as deemed by the Administrator to be consistent with the purposes of the Plan and as evidenced by an Award Agreement. The Administrator shall determine the terms and conditions of such Awards, consistent with the terms of the Plan, at the date of grant or thereafter, including any Performance Goals and performance periods. Common Stock or other securities or property delivered pursuant to an Award in the nature of a purchase right granted under this Section 11 shall be purchased for such consideration, paid for at such times, by such methods, and in such forms, including, without limitation, Shares, other Awards, notes or other property, as the Administrator shall determine, subject to any required corporate action.

(b) The prospective recipient of an Other Stock-Based Award or Other Cash-Based Award shall not have any rights with respect to such Award, unless and until such recipient has received an Award Agreement and, if required by the Administrator in the Award Agreement, executed and delivered a fully executed copy thereof to the Company, within a period of sixty (60) days (or such other period as the Administrator may specify) after the award date.

(c) Notwithstanding anything herein to the contrary, upon a Change in Control, all outstanding Other Stock-Based Awards and Other Cash-Based Awards shall be subject to Section 12 of the Plan.

Section 12. Change in Control.

The Administrator may provide in the applicable Award Agreement that an Award will vest on an accelerated basis upon the Participant's termination of employment or service in connection with a Change in Control or upon the occurrence of any other event that the Administrator may set forth in the Award Agreement. If the Company is a party to an agreement that is reasonably likely to result in a Change in Control, such agreement may provide for: (*i*) the continuation of any Award by the Company, if the Company is the surviving corporation; (*ii*) the assumption of any Award by the surviving corporation or its parent or subsidiary; (*iii*) the substitution by the surviving corporation or its parent or subsidiary of equivalent awards for any Award, *provided, however*, that any such substitution with respect to Options and Stock Appreciation Rights shall occur in accordance with the requirements of Code Section 409A; or (*iv*) settlement of any Award for the Change in Control Price (less, to the extent applicable, the per share exercise or grant price), or, if the per share exercise or grant price equals or exceeds the Change in Control Price or if the Administrator determines that Award cannot reasonably become vested pursuant to its terms, such Award shall terminate and be canceled without consideration. To the extent that Restricted Shares, Restricted Stock Units or other Awards settle in Shares in accordance with their terms upon a Change in Control, such Shares shall be entitled to receive as a result of the Change in Control transaction the same consideration as the Shares held by stockholders of the Company as a result of the Change in Control transaction. For purposes of this Section 12, "*Change in Control Price*" shall mean (A) the price per share of Common Stock paid to stockholders of the Company in the Change in Control transaction, or (B) the Fair Market Value of a Share upon a Change in Control, as determined by the Administrator. To the extent that the consideration paid in any such Change in Control transaction consists all or in part of securities or other non-cash consideration, the value of such securities or other non-cash consideration shall be determined in good faith by the Administrator.

Section 13. Amendment and Termination.

(a) The Board or the Committee may amend, alter or terminate the Plan, but no amendment, alteration, or termination shall be made that would impair the rights of a Participant under any Award theretofore granted without such Participant's consent.

(b) Notwithstanding the foregoing, approval of the Company's stockholders shall be obtained to increase the aggregate Share limit described in Section 4.

(c) Subject to the terms and conditions of the Plan, the Administrator may modify, extend or renew outstanding Awards under the Plan, or accept the surrender of outstanding Awards (to the extent not already exercised) and grant new Awards in substitution of them (to the extent not already exercised).

(d) Notwithstanding the foregoing, no alteration, modification or termination of an Award will, without the prior written consent of the Participant, adversely alter or impair any rights or obligations under any Award already granted under the Plan.

Section 14. Unfunded Status of Plan.

The Plan is intended to constitute an "unfunded" plan for incentive compensation. With respect to any payments not yet made or Shares not yet transferred to a Participant by the Company, nothing contained herein shall give any such Participant any rights that are greater than those of a general creditor of the Company.

Section 15. Withholding Taxes.

Each Participant shall, no later than the date as of which the value of an Award first becomes includible in the gross income of such Participant for federal, state and/or local income tax purposes, pay to the Company, or make arrangements satisfactory to the Administrator regarding payment of, any federal, state, or local taxes of any kind, domestic or foreign, required by law or regulation to be withheld with respect to the Award. The obligations of the Company under the Plan shall be conditional on the making of such payments or arrangements, and the Company shall, to the extent permitted by law, have the right to deduct any such taxes from any payment of any kind otherwise due to such Participant. Whenever cash is to be paid pursuant to an Award granted hereunder, the Company shall have the right to deduct therefrom an amount sufficient to satisfy any federal, state and local withholding tax requirements related thereto. Whenever Shares are to be delivered pursuant to an Award, the Company shall have the right to require the Participant to remit to the Company in cash an amount sufficient to satisfy any related federal, state and local taxes, domestic or foreign, to be withheld and applied to the tax obligations. With the approval of the Administrator, a Participant may satisfy the foregoing requirement by electing to have the Company withhold from delivery of Shares or by delivering already owned unrestricted shares of Common Stock, in each case, having a value equal to the amount required to be withheld or such other greater amount up to the maximum statutory rate under applicable law, as applicable to such Participant, if such other greater amount would not result in adverse financial accounting treatment, as determined by the Administrator (including in connection with the effectiveness of FASB Accounting Standards Update 2016-09). Such Shares shall be valued at their Fair Market Value on the date of which the amount of tax to be withheld is determined. Fractional share amounts shall be settled in cash. Such an election may be made with respect to all or any portion of the Shares to be delivered pursuant to an Award. The Company may also use any other method of obtaining the necessary payment or proceeds, as permitted by law, to satisfy its withholding obligation with respect to any Option or other Award.

Section 16. Non-United States Employees.

Without amending the Plan, the Administrator may grant Awards to eligible persons residing in non-United States jurisdictions on such terms and conditions different from those specified in the Plan, including the terms of any award agreement or plan, adopted by the Company or any Subsidiary thereof to comply with, or take advantage of favorable tax or other treatment available under, the laws of any non-United States jurisdiction, as may in the judgment of the Administrator be necessary or desirable to foster and promote achievement of the purposes of the Plan and, in furtherance of such purposes the Administrator may make such modifications, amendments, procedures, subplans and the like as may be necessary or advisable to comply with provisions of laws in other countries or jurisdictions in which the Company or its Subsidiaries operates or has employees.

Section 17. Transfer of Awards.

No purported sale, assignment, mortgage, hypothecation, transfer, charge, pledge, encumbrance, gift, transfer in trust (voting or other) or other disposition of, or creation of a security interest in or lien on, any Award or any agreement or commitment to do any of the foregoing (each, a "*Transfer*") by any holder thereof in violation of the provisions of the Plan or an Award Agreement will be valid, except with the prior written consent of the Administrator, which consent may be granted or withheld in the sole discretion of the Administrator, and other than by will, by the laws of descent and distribution. Any purported Transfer of an Award or any economic benefit or interest therein in violation of the Plan or an Award Agreement shall be null and void *ab initio*, and shall not create any obligation or liability of the Company, and any person purportedly acquiring any Award or any economic benefit or interest therein transferred in violation of the Plan or an Award Agreement shall not be entitled to be recognized as a holder of such Shares. Unless otherwise determined by the Administrator in accordance with the provisions of the immediately preceding sentence, an Option may be exercised, during the lifetime of the Participant, only by the Participant or, during any period during which the Participant is under a legal disability, by the Participant's guardian or legal representative.

Section 18. Continued Employment.

The adoption of the Plan shall not confer upon any Eligible Recipient any right to continued employment or service with the Company or an Affiliate thereof, as the case may be, nor shall it interfere in any way with the right of the Company or an Affiliate thereof to terminate the employment or service of any of its Eligible Recipients at any time.

Section 19. Effective Date and Approval Date.

The Plan will be effective as of the date on which the Plan is approved by the Company's stockholders (the "*Effective Date*"). The Plan will be unlimited in duration and, in the event of Plan termination, will remain in effect as long as any Shares awarded under it are outstanding; *provided, however*, that no Awards will be made under the Plan on or after the tenth anniversary of Effective Date.

Section 20. Code Section 409A.

The intent of the parties is that payments and benefits under the Plan comply with Code Section 409A (or an available exemption therefrom) to the extent subject thereto, and, accordingly, to the maximum extent permitted, the Plan shall be interpreted and be administered to be in accordance therewith. Any payments described in the Plan that are due within the "short-term deferral period" as defined in Code Section 409A shall not be treated as deferred compensation unless applicable law requires otherwise. Notwithstanding anything to the contrary in the Plan, to the extent required in order to avoid accelerated taxation and/or tax penalties under Code Section 409A, amounts that would otherwise be payable and benefits that would otherwise be provided upon a "separation from service" to a Participant who is a "specified employee" shall be paid on the first business day after the date that is six (6) months following the Participant's separation from service (or upon the Participant's death, if earlier). In addition, for purposes of the Plan, each amount to be paid or benefit to be provided to the Participant pursuant to the Plan, which constitute deferred compensation subject to Code Section 409A, shall be construed as a separate identified payment for purposes of Code Section 409A. Nothing contained in the Plan or an Award Agreement shall be construed as a guarantee of any particular tax effect with respect to an Award. The Company does not guarantee that any Awards provided under the Plan will satisfy the provisions of Code Section 409A, and in no event will the Company be liable for any or all portion of any taxes, penalties, interest or other expenses that may be incurred by a Participant on account of any non-compliance with Code Section 409A.

Section 21. Compensation Recovery Policy.

The Plan and all Awards issued hereunder shall be subject to any compensation recovery and/or recoupment policy adopted by the Company to comply with applicable law, including, without limitation, the Dodd-Frank Wall Street Reform and Consumer Protection Act, or to comport with good corporate governance practices, as such policies may be amended from time to time.

Section 22. Governing Law.

The Plan shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to principles of conflicts of law of such state.

Section 23. Plan Document Controls.

The Plan and each Award Agreement constitute the entire agreement with respect to the subject matter hereof and thereof; *provided* that in the event of any inconsistency between the Plan and such Award Agreement, the terms and conditions of the Plan shall control.

Exhibit 21

Subsidiaries of Concrete Pumping Holdings, Inc.

Entity	Jurisdiction
Concrete Pumping Intermediate Acquisition Corp.	Delaware
Industrea Acquisition Corp.	Delaware
Brundage-Bone Concrete Pumping Holdings, Inc.	Delaware
Concrete Pumping Intermediate Holdings, LLC	Delaware
Concrete Pumping Property Holdings, LLC	Delaware
Brundage-Bone Concrete Pumping, Inc.	Colorado
Eco-Pan, Inc.	Colorado
Greystone Pumping Holdings SRL	Barbados
Eco-Pan Recycling, Ltd.	Canada
Lux Concrete Holdings I S.à r.l.	Luxembourg
Eco-Pan Environmental Services, Inc.	Canada
Lux Concrete Holdings II S.à r.l.	Luxembourg
Camfaud Group Limited	United Kingdom
Camfaud Concrete Pumps Limited	United Kingdom
South Cost Concrete Pumping Limited	United Kingdom
Premier Concrete Pumping Limited	United Kingdom
Reilly Concrete Pumping Limited	United Kingdom

Exhibit 99.1

Industrea Acquisition Corp. and Concrete Pumping Holdings Complete Business Combination

NEW YORK – December 6, 2018 – Industrea Acquisition Corp. (Nasdaq: INDUU, INDU, INDUW) ("Industrea") today announced the closing of its previously announced business combination with Concrete Pumping Holdings, Inc. ("CPHI"). The business combination was approved at Industrea's special meeting of stockholders held December 4th, 2018.

The business combination resulted in Industrea and CPHI becoming wholly owned subsidiaries of Concrete Pumping Holdings Acquisition Corp., which has changed its name to Concrete Pumping Holdings, Inc. ("CPH" or the "Company"). CPH expects that its common stock and warrants will commence trading on the Nasdaq Capital Market on December 7th, 2018, under the ticker symbols "BBCP" and "BBCPW," respectively.

CPH is the leading provider of concrete pumping services in the fragmented U.S. and U.K. markets, operating the only established, national brands in both markets (Brundage-Bone and Camfaud, respectively), and concrete waste management services under the Eco-Pan brand. CPH is led by CEO Bruce Young, who is a 38-year veteran of the industry and will continue to serve in that role and hold a seat on the new board of directors.

Commenting on the transaction, Young stated, "We are excited to take this next step as a company and believe we are now even better positioned to continue to deliver our industry-leading services in the U.S. and U.K. CPH has long desired to be a public company to access the capital markets in order to further grow our differentiated platform, and now that we have opened this next chapter, we are eager to add to our significant scale, geographic reach, and service line offering."

With the industry's most comprehensive fleet and highly-skilled operators, CPH provides highly specialized, quality service and is especially suited to support large and complex construction projects. It provides concrete pumping services in the U.S. from a footprint of 80 locations across 22 states under the Brundage-Bone brand, and in the U.K. from 28 locations under the Camfaud brand. CPH is well-diversified across the commercial, infrastructure and residential end-markets, and serves a growing base of more than 8,000 customers with minimal customer concentration.

Howard Morgan, former CEO of Industrea Acquisition Corp., said, "We are thrilled to partner with Bruce and the highly experienced CPH team in this next stage of their growth. CPH is unrivaled in its ability to serve the concrete pumping and waste management market, and we look forward to continuing to support them as directors of the combined company."

Concrete pumping is a specialized method of concrete placement that requires highly-skilled operators to position a truck-mounted boom for precise delivery when direct pouring is not feasible. The customer value proposition of concrete pumping includes shortened project times, enhanced access to challenging construction locations, consistent placement and enhanced job site safety. Importantly, since concrete pumping is also materially less labor-intensive than traditional placement methods, it represents a superior all-in cost solution for customers who are operating in an environment characterized by high construction labor costs. As a result of its attractive customer value proposition, concrete pumping has increasingly displaced other concrete placement methods.

Tariq Osman, former executive vice president of Industrea Acquisition Corp. commented, “In this next phase of growth, we’re looking forward to continuing the rollout of CPH’s complementary, full-service, cost-effective, and regulatory-compliant solution to manage environmental issues caused by concrete wastewater (“washout”) under the Eco-Pan brand. Its route-based solution operates from 13 locations in the U.S., provides watertight pans used to collect concrete washout, and ensures fully-compliant disposal and recycling of the waste.”

With the closing of the business combination, CPH’s board now consists of Bruce Young, CPH CFO Iain Humphries, Howard Morgan, Tariq Osman, Heather Faust, and four independent directors, including chairman David Brown, Brian Hodges, David Hall, and John Piecuch. In addition, CPH expects three directors designated by former majority shareholder, Peninsula Pacific, to be appointed to the board following the closing.

Industrea was advised on the transaction by B. Riley FBR, Stifel, Headwall, and XMS Capital Partners. B. Riley FBR also acted as sole placement agent for the PIPE investments. Winston & Strawn LLP acted as Industrea’s legal counsel. Ellenoff Grossman & Schole LLP acted as legal counsel to B. Riley FBR. CPHI and Peninsula Pacific were advised by Baird with Latham & Watkins LLP acted as legal counsel to CPHI and Peninsula Pacific. Ballard Spahr LLP also acted as legal counsel to CPHI.

About Concrete Pumping Holdings (CPH)

CPH is the leading provider of concrete pumping services and concrete waste management services in the fragmented U.S. and U.K. markets, operating under the only established, national brands in both markets (Brundage-Bone and Camfaud, respectively). Concrete pumping is a specialized method of concrete placement that requires highly-skilled operators to position a truck-mounted fully-articulating boom for precise delivery of ready-mix concrete from mixer trucks to placing crews on a job site. CPH’s large fleet of specialized pumping equipment and trained operators position it to deliver concrete placement solutions that facilitate substantial labor cost savings to customers, shorten concrete placement times, enhance worksite safety and improve construction quality. CPH is also the leading provider of concrete waste management services in the U.S. market, operating under the only established, national brand, Eco-Pan. Highly complementary to its core concrete pumping service, Eco-Pan provides a full-service, cost-effective, regulatory-compliant solution to manage environmental issues caused by concrete washout. As of July 31, 2018, CPH provides concrete pumping services in the U.S. from a footprint of 80 locations across 22 states, concrete pumping services in the U.K. from 28 locations, and route-based concrete waste management services from 13 locations in the U.S. For more information, please visit www.concretepumpingholdings.com or CPH’s brand websites at www.brundagebone.com, www.camfaud.co.uk, or www.eco-pan.com.

About Industrea Acquisition Corp.

Industrea Acquisition Corp. is a special purpose acquisition company formed by an affiliate of Argand Partners for the purpose of entering into a merger, stock purchase, or similar business combination with one or more businesses in the industrial sector. Industrea Acquisition Corp. completed its initial public offering in August 2017, raising approximately $230 million in cash proceeds. For more information, please visit www.IndustreaEquity.com.

Forward-Looking Statements

This press release includes "forward-looking statements" within the meaning of the "safe harbor" provisions of the Private Securities Litigation Reform Act of 1995. The Company's and CPHI's actual results may differ from their expectations, estimates and projections and consequently, you should not rely on these forward-looking statements as predictions of future events. Words such as "expect," "estimate," "project," "budget," "forecast," "anticipate," "intend," "plan," "may," "will," "could," "should," "believes," "predicts," "potential," "continue," and similar expressions are intended to identify such forward-looking statements. These forward-looking statements include, without limitation, the Company's and CPHI's expectations with respect to future performance and anticipated financial impacts of the transaction. These forward-looking statements involve significant risks and uncertainties that could cause the actual results to differ materially from the expected results. Most of these factors are outside the Company's and CPHI's control and are difficult to predict. Factors that may cause such differences include, but are not limited to: the outcome of any legal proceedings that may be instituted against the Company and CPHI; the inability to obtain or maintain the listing of the Company's shares of common stock of on The Nasdaq Stock Market; the risk that the business combination disrupts current plans and operations as a result of the consummation of the transaction; the ability to recognize the anticipated benefits of the business combination, which may be affected by, among other things, competition, the ability of CPH to grow and manage growth profitably and retain its key employees; costs related to the business combination; changes in applicable laws or regulations; the possibility that CPH may be adversely affected by other economic, business, and/or competitive factors; and other risks and uncertainties indicated from time to time in CPH's filings with the Securities and Exchange Commission. The Company cautions that the foregoing list of factors is not exclusive. The Company cautions readers not to place undue reliance upon any forward-looking statements, which speak only as of the date made. The Company does not undertake or accept any obligation or undertaking to release publicly any updates or revisions to any forward-looking statements to reflect any change in its expectations or any change in events, conditions or circumstances on which any such statement is based.

No Offer or Solicitation

This press release does not constitute a solicitation of a proxy, consent or authorization with respect to any securities or in respect of the proposed transaction. This press release also does not constitute an offer to sell or the solicitation of an offer to buy any securities, nor will there be any sale of securities in any states or jurisdictions in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction. No offering of securities will be made except by means of a prospectus meeting the requirements of section 10 of the Securities Act of 1933, as amended, or an exemption therefrom.

Contact:

Liolios, Investor Relations
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Exhibit 99.2

CONCRETE PUMPING HOLDINGS

The Leading Concrete Pumping Provider in the U.S. and U.K.

Investor Presentation | NASDAQ: BBCP | December 2018

Disclaimer

Important Information
This investor presentation ("Investor Presentation") is for informational purposes only and does not constitute an offer to sell, a solicitation of an offer to buy, or a recommendation to purchase any equity, debt or other financial instruments of Concrete Pumping Holdings, Inc. (the "Company") or any of the Company's affiliates. It is not intended to form the basis of any investment decision. The information contained herein does not purport to be all-inclusive. The data contained herein is derived from various internal and external sources. No representation is made as to the reasonableness of the assumptions made within or the accuracy or completeness of any projections or modeling or any other information contained herein. Any data on past performance or modeling contained herein is not an indication as to future performance. The Company assumes no obligation to update the information in this Investor Presentation.

Forward-Looking Statements
This Investor Presentation includes "forward-looking statements" within the meaning of the "safe harbor" provisions of the Private Securities Litigation Reform Act of 1995. The Company's actual results may differ from its expectations, estimates and projections and consequently, you should not rely on these forward-looking statements as predictions of future events. Words such as "expect," "estimate," "project," "budget," "forecast," "anticipate," "intend," "plan," "may," "will," "could," "should," "believes," "predicts," "potential," "continue," and similar expressions are intended to identify such forward-looking statements. These forward-looking statements involve significant risks and uncertainties that could cause the actual results to differ materially from the expected results. Most of these factors are outside the Company's control and are difficult to predict. Factors that may cause such differences include, but are not limited to: the outcome of any legal proceedings that may be instituted against the Company; the inability to obtain or maintain the listing of the Company's shares of common stock on The Nasdaq Stock Market; the risk that the Company's recently consummated business combination (the "business combination") disrupts current plans and operations; the ability to recognize the anticipated benefits of the business combination, which may be affected by, among other things, competition, the ability of the Company to grow and manage growth profitably and retain its key employees; costs related to the business combination; changes in applicable laws or regulations; the possibility that the Company may be adversely affected by other economic, business, and/or competitive factors; and other risks and uncertainties indicated from time to time in the Company's filings with the U.S. Securities and Exchange Commission. The Company cautions that the foregoing list of factors is not exclusive. The Company cautions readers not to place undue reliance upon any forward-looking statements, which speak only as of the date made. The Company does not undertake or accept any obligation or undertaking to release publicly any updates or revisions to any forward-looking statements to reflect any change in its expectations or any change in events, conditions or circumstances on which any such statement is based.

Industry and Market Data
In this Investor Presentation, we rely on and refer to information and statistics regarding market participants in the sectors in which the Company competes and other industry data. We obtained this information and statistics from third-party sources, including reports by market research firms, and company filings.

Historical and Projected Financial Information
This Investor Presentation contains financial forecasts. These financial forecasts were prepared in good faith by the Company on a basis believed to be reasonable. Such financial forecasts have not been prepared in conformity with generally accepted accounting principles ("GAAP"). The Company's independent auditors have not audited, reviewed, compiled or performed any procedures with respect to the projections for the purpose of their inclusion in this Investor Presentation, and accordingly, they have not expressed an opinion nor provided any other form of assurance with respect thereto for the purpose of this Investor Presentation. These projections are for illustrative purposes only and should not be relied upon as being necessarily indicative of future results. Certain of the above-mentioned projected information has been provided for purposes of providing comparisons with historical data. The assumptions and estimates underlying the prospective financial information are inherently uncertain and are subject to a wide variety of significant business, economic and competitive risks and uncertainties that could cause actual results to differ materially from those contained in the prospective financial information. Projections are inherently uncertain due to a number of factors outside of the Company's control. Accordingly, there can be no assurance that the prospective results are indicative of future performance of the Company or that actual results will not differ materially from those presented in the prospective financial information. Inclusion of the prospective financial information in this Investor Presentation should not be regarded as a representation by any person that the results contained in the prospective financial information will be achieved.

Non-GAAP Financial Measures
This Investor Presentation includes non-GAAP financial measures, including Pro Forma Adjusted Revenue, Pro Forma Adjusted EBITDA, Pro Forma Adjusted EBITDA Margin, and Adjusted Free Cash Flow. The Company defines Pro Forma Adjusted Revenue as revenue after giving pro forma effect to (i) the acquisition on November 17, 2016 of Camfaud Concrete Pumps Limited, and Premier Concrete Pumping Limited, which each also owned 50% of the stock of South Coast Concrete Pumping Limited (collectively "Camfaud" and the acquisition, the "Camfaud Acquisition"), and (ii) the acquisition on April 20, 2018 of substantially all assets of Richard O'Brien Companies, Inc., O'Brien Concrete Pumping-Arizona, Inc., O'Brien Concrete Pumping-Colorado, Inc. and O'Brien Concrete Pumping, LLC (collectively, "O'Brien" and the acquisition, the "O'Brien Acquisition"), as further adjusted to reflect a constant a currency exchange rate. Pre-acquisition financial results of Camfaud and O'Brien are labeled "pre-acquisition." Post-acquisition financial results for these companies are consolidated within the Company's financial statements for periods following the date of acquisition. Pro Forma Adjusted EBITDA is defined as net income (loss) plus interest expense, income taxes, depreciation, amortization, transaction expenses, loss on debt extinguishment, other income (expense), non-recurring adjustments and management fees. Pro Forma Adjusted EBITDA Margin is Pro Forma Adjusted EBITDA divided by Pro Forma Adjusted Revenue. Adjusted Free cash flow is defined as Pro Forma Adjusted EBITDA minus Pro Forma Capital Expenditures (the Company's capital expenditures after giving pro forma effect to the Camfaud Acquisition and the O'Brien Acquisition). These measures should not be used as substitutes for their most comparable measures calculated in accordance with GAAP. See Reconciliation of Non-GAAP Measures on Slide 30.

The Company believes that these non-GAAP measures of financial results provide useful information to management and investors regarding certain financial and business trends relating to the Company's financial condition and results of operations. The Company's management uses certain of these non-GAAP measures to compare the Company's performance to that of prior periods for trend analyses and for budgeting and planning purposes.

A reconciliation of non-GAAP forward looking information to their corresponding GAAP measures has not been provided due to the lack of predictability regarding the various reconciling items such as provision for income taxes and depreciation and amortization, which are expected to have a material impact on these measures and are out of the Company's control or cannot be reasonably predicted without unreasonable efforts. You should review the Company's audited financial statements and not rely on any single financial measure to evaluate the Company's business. Other companies may calculate Adjusted EBITDA, Adjusted EBITDA Margin, Adjusted Free Cash Flow and other non-GAAP measures differently, and therefore the Company's Pro Forma Adjusted EBITDA, Pro Forma Adjusted EBITDA Margin, and Adjusted Free Cash Flow and other non-GAAP measures may not be directly comparable to similarly titled measures of other companies.

Concrete Pumping Holdings (CPH) Overview

Company Overview

- The leading concrete pumping provider in the U.S. and U.K. under **Brundage-Bone** and **Camfaud** brands, respectively
- **Eco-Pan** is our highly profitable, disruptive waste management service in the U.S.; emerging presence in the U.K.
- **Brundage-Bone** has a ~10% market share and is ~4x+ larger than any competitor in the U.S. **Camfaud** has a ~34% market share and is ~10x larger than any competitor in the U.K.[1]
- **Eco-Pan** has achieved historical annual revenue growth of ~25% with ~44% EBITDA margins and unit economics that generate a ~54% ROI[2]
- Acquirer of choice that has completed 45+ acquisitions since 1983
- FY 2018E Pro Forma Adjusted Revenue ~$251m; Pro Forma Adjusted EBITDA ~$85m

Select Marquee Projects

Amazon Block 20 (Seattle, WA)

AT&T Stadium - Dallas Cowboys (Arlington, TX)

Note: Metrics are pro forma for the financial impact of the April 2018 O'Brien acquisition.
(1) Market share based on LTM revenue as of April 2018. Comparison to competitors based on CPH's pump count compared to next largest competitor.
(2) Eco-Pan financial profile reflects historical results and may not be indicative of future returns. EBITDA Margin based on nine months ending July 31, 2018.

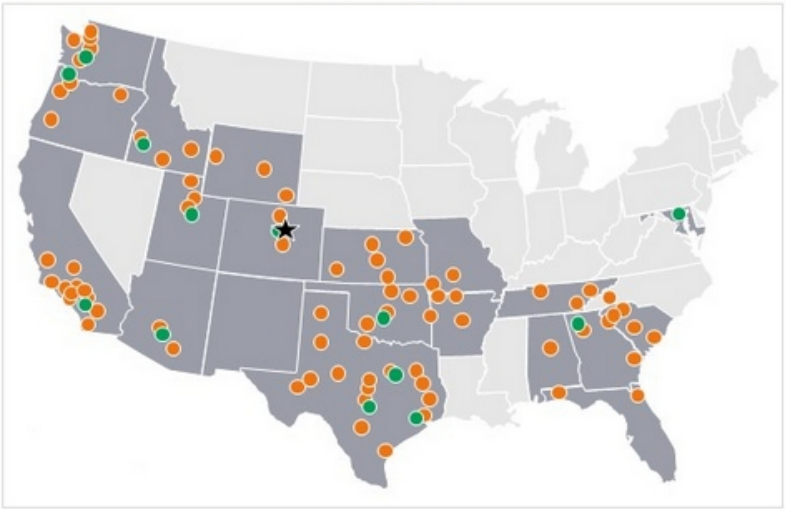
Investment Highlights

- ✓ **Attractive industry dynamics** – commercial, environmental & legislative tailwinds
- ✓ **Secular trend towards concrete pumping** – faster, safer & higher quality than alternatives
- ✓ **Scale advantages** – utilization & costs
- ✓ Track record of **pricing optimization**
- ✓ **Short investment paybacks** & **long-life assets**
- ✓ **Diversity** of geographies, end markets & customers provides cycle resiliency
- ✓ **Positioned to grow** – Eco-Pan rollout, geographic expansion, pricing & M&A
- ✓ **Proven management team** with significant ownership stake

CPH Geographic Coverage

	Brundage-Bone Concrete Pumping	Camfaud	Eco-Pan	Corporate HQ
Legend:	●	●	●	★
# of Locations:	80	28	14	

U.S. Footprint



U.K. Footprint

Note: Denver is the HQ for CPH; London is the main corporate office in the U.K. First Eco-Pan location in the U.K. expected to open Q1 FY 2019.

Platform with Significant Scale and Diversity

Diversity Provides Resiliency

Geographic Diversity...

...Even Within the U.S.

End Market Diversity

Service Line Diversity

No Customer Concentration

No Project Concentration

Note: Revenue excludes contribution from the April 2018 O'Brien acquisition (approximately $14 million of revenue in FY 2017, all of which were earned providing concrete pumping services in the U.S.). CPH has an October fiscal year end.
(1) Analysis is pro forma adjusted for a full year contribution of CPH's U.K. segment (Camfaud), which was acquired in November 2016, and assumes a constant currency adjustment based on a GBP to USD exchange rate of 1.370.
(2) U.S. revenue breakdown based on concrete pumping operations only.
(3) Project count based on U.S. and U.K. concrete pumping operations only. Figures do not sum to 100% due to rounding.

Significant Advantages of Concrete Pumping

Concrete Placement Methods

% of U.S. Market[1]

Tailgating 45%

Pumping 34%

Wheel-barrow 9%

Crane & Bucket 2%

Advantages of Concrete Pumping

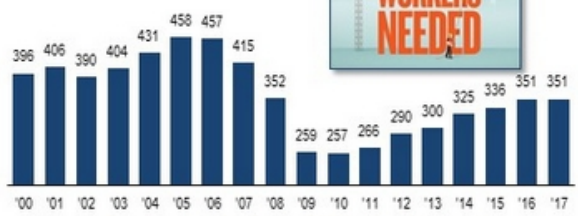
- Speed and Efficiency
- Access / Precision of Placement
- Safety
- Consistent Placement
- Comparable All-In Cost

(1) Figures do not sum to 100% as 'other methods' (i.e. pre-cast concrete) account for a further 10% of the market.

Large, Growing Market Supported by Compelling Tailwinds

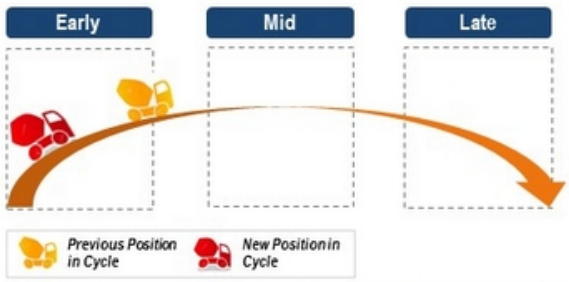
1 U.S. Concrete Production

(Millions of cubic yards)



Concrete production is ~23% below prior peak. Industry labor constraints extending recovery.

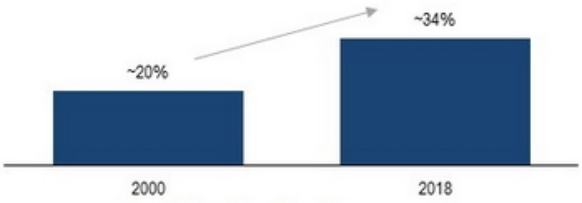
2 Extended Construction Cycle



Tax reform, regulatory relief and increased infrastructure spending extending the cycle.

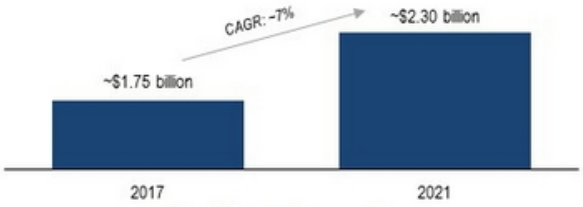
3 Concrete Pumping Gaining Share

(% of total U.S. concrete placement that is pumped)



Pumping is taking share due to compelling customer value proposition.

4 U.S. Pumped Concrete Demand



Pumping market expected to see strong pricing and volume growth.

Market Leader in U.S. and U.K.

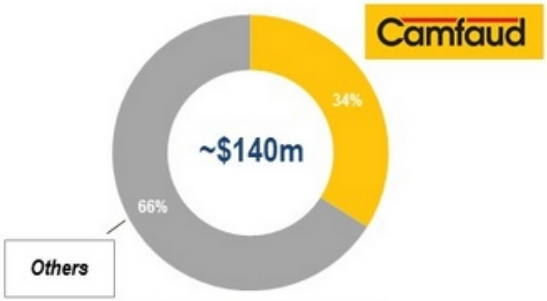
U.S. Market Position

(Percent of Concrete Pumping Spend)

4x+ larger than competition[1]

U.K. Market Position

(Percent of Concrete Pumping Spend)



10x+ larger than competition[1]

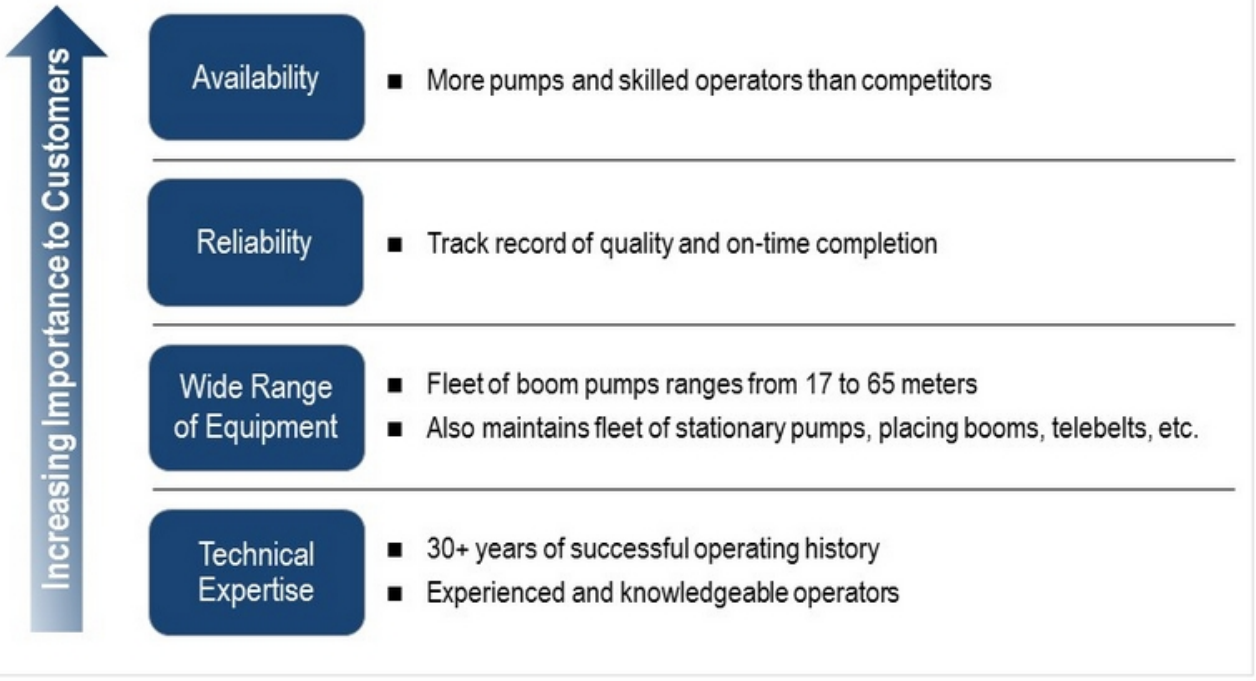
Key Highlights

- Most competitors serve only local areas and lack breadth of equipment (typical fleet of ~5-10 pumps)
- Few regional competitors serving more than two states or markets
- Most local markets have only two providers of scale
- CPH's expansive fleet and national reach support differentiated, high-quality service

Note: Market position based on LTM revenue as of April 2018. Analysis is pro forma for the financial impact of the April 2018 O'Brien acquisition (approximately $14 million of revenue on an LTM basis as of April 2018, all of which were earned providing concrete pumping services in the U.S.). U.K. (Camfaud) LTM revenue assumes a constant currency adjustment based on a GBP to USD exchange rate of 1.370.
(1) Based on CPH's pump count compared to next largest competitor.

Compelling Customer Value Proposition

CPH Competitive Advantages



Key Advantages of Business Model

Simple Bidding Process	■ Services provided on a hourly and yardage poured basis, and include invoicing a travel charge ■ Surcharge for any additional costs (such as fuel) ■ High percentage of repeat customers plus strong referral network
Limited Project Risk	■ Pure service business that doesn't take title of ready-mix concrete ■ No raw material price exposure ■ No product liability risk
No Fixed Price Projects	■ No fixed price bid work and no percentage of completion accounting ■ The daily pour, not the total project, is what is billed ■ Variable Cost base provides flexibility across business environments
No Surety Bonding Requirements	■ No letter of credit or bonding exposure
Limited Bad Debt Exposure	■ Negligible bad debt expense historically ■ Typically one of the first trade contractors paid on the job ■ Company invoices customers each day as the work is performed

CPH's business model avoids issues common to typical contractors and construction service providers

Scale Advantages Over Smaller Competitors

Purchasing	■ Meaningful discount on OEM capex purchases and parts relative to smaller competitors ■ Meaningful discount on fuel purchases by buying wholesale ■ Able to negotiate discount on insurance with a more robust Health, Safety and Environmental program
Breadth of Services	■ Can bid on larger, more complex jobs that typically require a broader mix of equipment ■ Smaller players are typically limited to booms of 47 meters and smaller, CPH has booms of up to 65 meters
Fleet Availability	■ Ability to move assets to strongest markets based on customer demand ■ Maximized uptime and extended useful life through dedicated, high quality onsite maintenance ■ Able to match the appropriate size pump to the customer's requirements driving enhanced utilization
Trained Operators	■ Strive to be the "employer of choice" in the industry ■ Established training program and opportunities for career advancement ■ Leading safety programs and track record

CPH is the only national provider of concrete pumping services, which creates substantial and unique competitive advantages

Eco-Pan – A Unique, Disruptive Environmental Solution

Concrete Waste Management Overview

- Stringent regulation on washout of concrete pump trucks and related equipment
- Ensuring job sites are environmentally compliant is a major challenge and distraction for contractors
- Eco-Pan provides a simple, fully-compliant and cost-effective solution
- Highly profitable (~44% EBITDA margins[1]) and strong historical growth (~25% annual revenue growth)

Options for Concrete Washwater Containment

Ineffective Legacy Alternatives

No solution

Immovable washout pits

Disruptive Solution: Eco-Pan

Turn-key, route-based service.
Collect & retain all washwater in leakproof containers

Note: Eco-Pan financial profile reflects historical results and may not be indicative of future returns.
1) EBITDA Margin based on nine months ending July 31, 2018.

Proven Management With Significant Ownership Stake

Current CPH Management & Employees Collectively Own 13% of the Company[1]

Bruce Young
Chief Executive Officer

- CEO of CPH: 2008 – Present
- CEO of Eco-Pan: 1999 – Present
- Manager of Brundage-Bone concrete pumping operations: 2001 – 2008
- 38 years of industry experience

Iain Humphries
Chief Financial Officer

- CFO of CPH: 2016 – Present
- CFO of Wood Group PSN Americas (LSE:WG): 2013 – 2016
- 20 years of international financial and managerial experience
- Chartered Accountant of the Institute of Chartered Accountants of Scotland

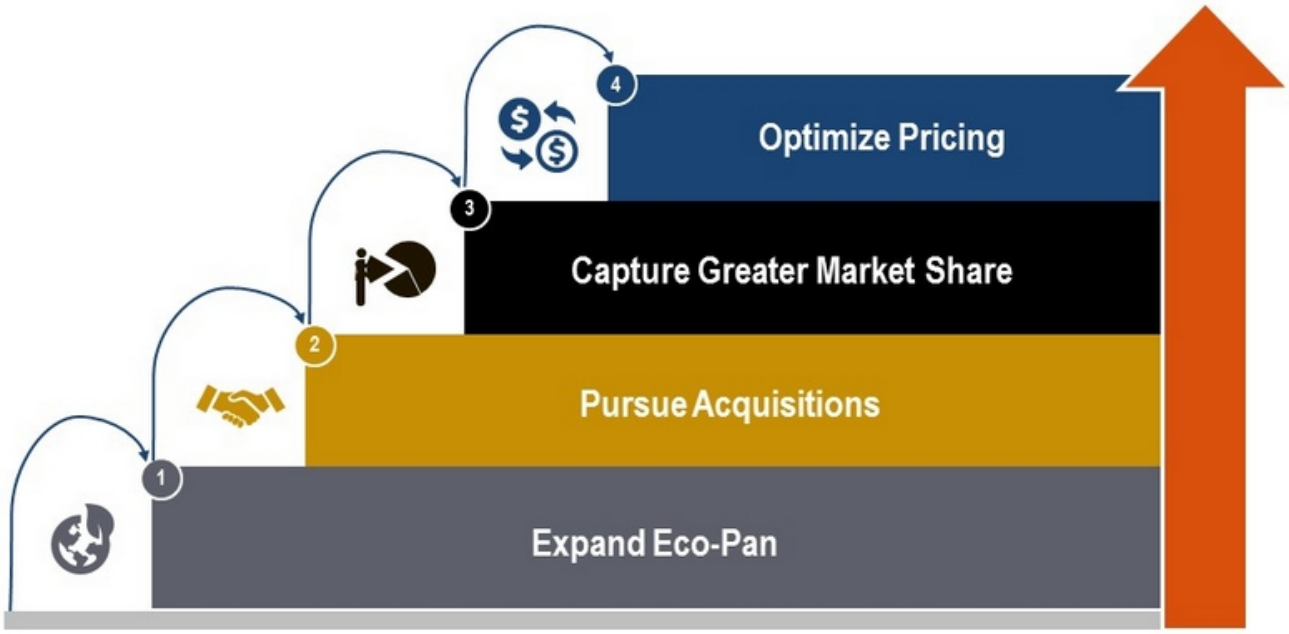
Tony Faud
Managing Director, U.K.

- Managing Director of CPH UK operations
- Managing Director of Camfaud since 2002
- 30+ years of industry experience

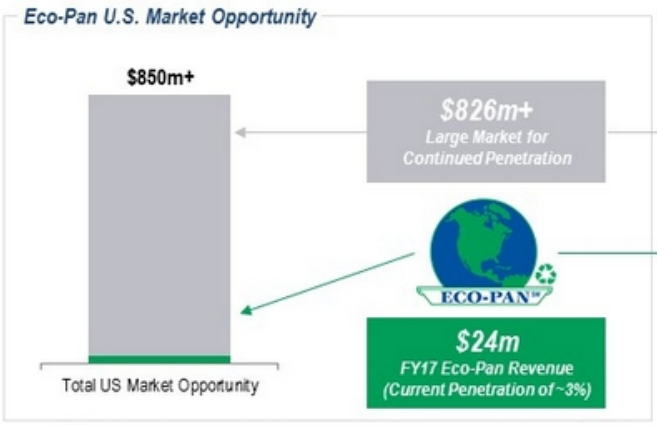
(1) Assumes conversion and full dilution of the Zero-Dividend Convertible Perpetual Preferred Stock PIPE and all outstanding "in-the-money" options that were issued at the Closing to certain members of CPH Management and Former CPH Employee Shareholders, based on Treasury Stock method and an assumed $10.20 stock price.

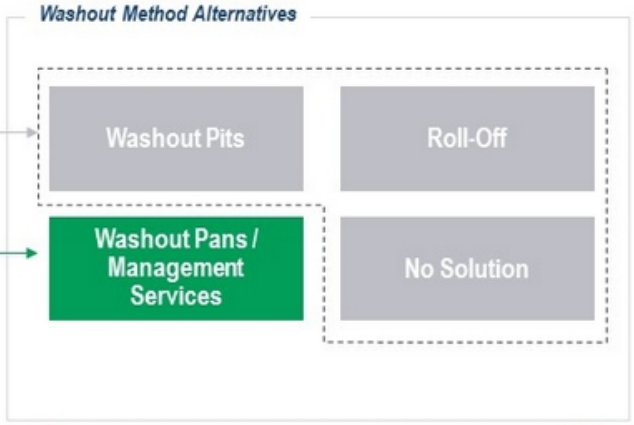
Framing the CPH Growth Opportunity

Scalable platform that is positioned for continued strong organic and strategic growth



1 Eco-Pan – Significant White Space Market Opportunity





Key Factors for Increased Penetration of Eco-Pan

A. ***Violation avoidance*** – provides a simple, leak-proof solution, compliant with EPA and state regulations

B. ***Environmental protection*** – high-quality pans that are far less likely to leak or spill than washout pits

C. ***Convenience / reduced labor*** – Convenient turn-key solution for contractors, allowing focus on core activities

How We Execute

A. ***Route density*** – *supports profitable operations*

B. ***Capitalized to invest in high-quality pans and service*** – *designed by industry operators*

C. ***Cross-sell to our large, complementary concrete pumping customers*** – *only ~25% of Eco-Pan's business is with CPH's own concrete pumping units*

2 Proven M&A Platform

M&A Playbook

- **Acquirer of Choice:** Completed 45+ acquisitions since 1983 (avg. pre-synergy Adjusted EBITDA multiples <4.5x)
- **Benefits of Scale:** Track record of increasing Adjusted EBITDA margins of target (~20%) to CPH levels (~35%) within first few years through utilization increases, price optimization and cost synergies
- **Clear Acquisition Criteria:** Strong management, good employee and customer relationships, well maintained fleet and meaningful potential for synergies
- **Attractive Tax Benefits Available:** Transactions typically structured as asset purchases, expected to allow 100% cost expensing for tax purposes
- **Strong Acquisition Pipeline:** Active discussions with U.S. targets (~$6-7m Adjusted EBITDA) and U.K. targets (~$0.5m Adjusted EBITDA)[1]; ~$100m of additional Adjusted EBITDA identified

Acquisitions since 2015

Company Name	Markets	Purchase Price (millions)	Est. Acquisition Adjusted EBITDA Multiple[2]
Solid Rock	TX	$1.1	2.6x
Dyna Pump	TX	$0.3	1.6x
Action	SC, TN, AL	$5.6	7.3x
AJ / Kenyon	SC	$1.7	2.1x
Oxford	U.K.	£45.5	4.4x
Reilly	U.K.	£10.2	4.0x
O'Brien	CO	$21.0	4.0x

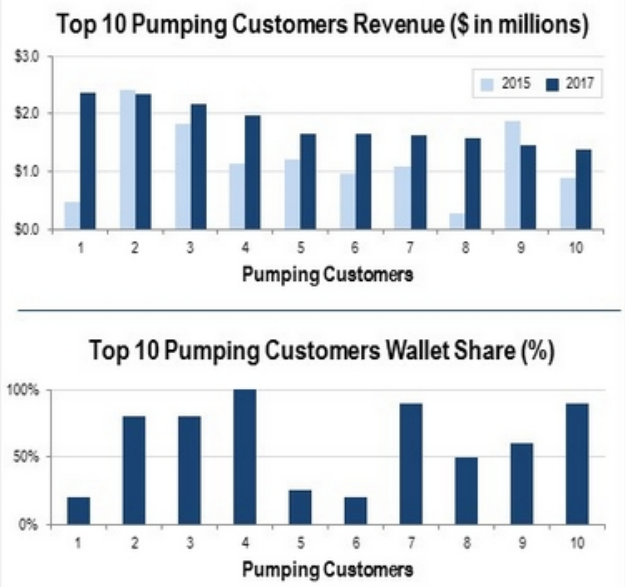
Note: Figures above are indicative of historical acquisition results. There can be no assurances that future acquisitions will occur or perform in line with historical achievements.
(1) An acquisition of either of these targets is still subject to further negotiations, due diligence, availability of financing, regulatory approvals and CPH board approval.
(2) Estimated acquisition Adjusted EBITDA multiples are before synergies.

3 Capture Greater Market Share – Drivers of Growth

Drivers of Growth

- ✓ Favorable market tailwinds – customers posting record backlogs
- ✓ CPH customers capturing greater share
- ✓ Increasing project complexity
- ✓ Ability to charge premium pricing for superior quality
- ✓ Customers reducing number of pumping providers with preference for national players
- ✓ Customers pulling CPH into new markets

Proven Growth and Strong Opportunity With Top Customers



3 Capture Greater Market Share – Large Opportunities in U.S. & U.K.

U.S. State Infrastructure Report and Grading[1]

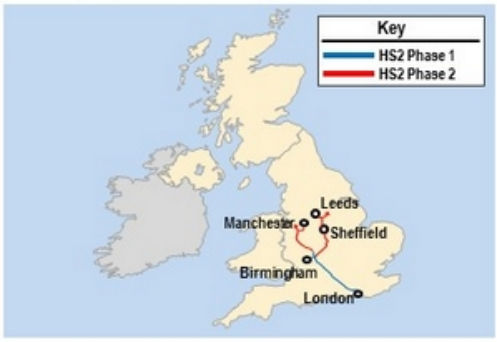
U.S. Infrastructure Report and Grading[1]

	Category	Grade
1	Aviation	D
2	Bridges	C+
3	Dams	D
4	Drinking Water	D
5	Energy	D+
6	Hazardous Waste	D+
7	Inland Waterways	D
8	Levees	D
9	Parks & Recreation	D+
10	Ports	C+
11	Rail	B
12	Roads	D
13	Schools	D+
14	Solid Waste	C+
15	Transit	D-
16	Wastewater	D+
	Overall	D+

U.S. Infrastructure Stimulus Opportunity

- Significant investment ($1+ trillion over ten years) expected to address aging and poor state of U.S. infrastructure
- Brundage-Bone's footprint and operational capabilities position it well to capture a large share of stimulus spend

U.K. High Speed Railway Project ("HS2")



Project Overview

- $77 billion HS2 project
- Highly concrete intensive, with a very large percentage requiring pumping
- CPH's U.K. segment (Camfaud) is well positioned to receive a large share given its national footprint and fleet capabilities
- Expected Contribution – Phase 1 Only:
  - ~5.4 million m^3 of concrete and ~2.2 million m^3 of which will be pumped
  - Phase 1 market opportunity for Camfaud could be worth up to $24 million

(1) American Society of Civil Engineers "2017 Infrastructure Report Card: A Comprehensive Assessment of America's Infrastructure".

Camfaud

4 Track Record of Pricing Optimization

Drivers of Pricing Optimization

Faster, Safer & Higher Quality

Advantages of concrete pumping

~90 mins

Time before ready-mix concrete perishes

~3 mins

Approximate time for concrete pumping to empty ready-mix truck

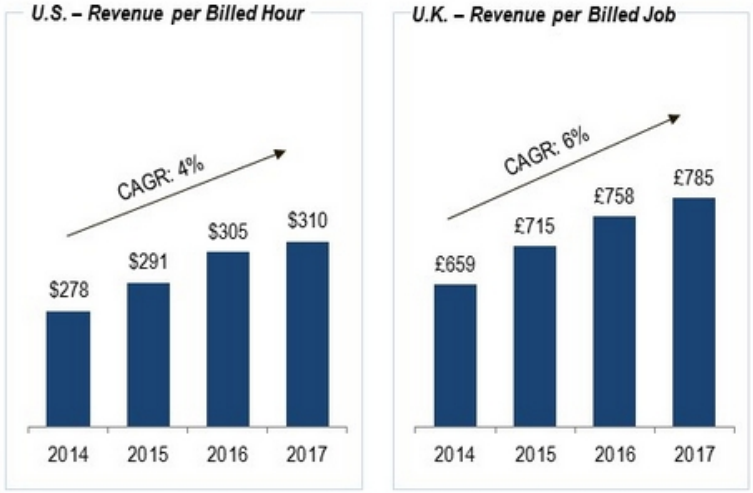
~10%

Ready-mix concrete costs (as % of overall project costs)

~1-2%

Concrete pumping costs (as % of overall project costs)

Track Record of Price Optimization in the U.S. and U.K.



BRUNDAGE-BONE CONCRETE PUMPING

Camfaud

ECO-PAN℠

Concrete Pumping Holdings, Inc.

Financial Overview

Historical & Forecasted Financial Profile[1]

Strong track record of growth, Adjusted EBITDA margins and attractive Adjusted Free Cash Flow

(US$ in millions)

Pro Forma Adjusted Revenue

2015 – 2019 CAGR: 8%

Pro Forma Adjusted EBITDA & Margin

2015 – 2019 CAGR: 9%

2015 – 2019 Avg. Margin: 34%

Pro Forma Capex

2015 – 2019 Average as % of Revenue: 12%

Adjusted Free Cash Flow & Adjusted FCF Conversion[2]

2015 – 2019 Average Adjusted FCF Conversion: 65%

Note: CPH has an October fiscal year end. Figures may not sum due to rounding. See Reconciliation of Non-GAAP Measures on Slide 30.

(1) Financials are pro forma adjusted to account for acquisitions made during these historical periods. Forecasts do not include the impact of prospective acquisitions.

(2) Adjusted Free Cash Flow defined as Pro Forma Adjusted EBITDA - Pro Forma Total Capex. Adjusted Free cash flow conversion defined as (Pro Forma Adjusted EBITDA – Pro Forma Total Capex) / Pro Forma Adjusted EBITDA.

Highly Variable Cost Structure

Variable Cost Base Provides Flexibility Across Business Environments

	FY 2017	Approximate Variable Component
Cost of Sales:		
Personnel	$63.4	85%
Fuel	10.4	95%
Parts, repairs & maintenance	21.9	95%
Insurance	7.1	70%
Other	6.0	80%
Total Cost of Sales	**$108.9**	**87%[1]**
% of Revenue	*48.9%*	
SG&A Expenses:		
Personnel	$24.5	20%
Facilities	3.6	10%
Auto	2.1	20%
Travel & entertainment	2.7	50%
Communication	1.3	20%
Personal fees	1.5	50%
Other	4.9	50%
Total SG&A Expenses	**$40.5**	**26%[1]**
% of Revenue	*18.2%*	

~70%[1] Variable Cost Base

Note: Analysis is pro forma adjusted for a full year contribution of CPH's U.K. segment (Camfaud), which was acquired in November 2016, and assumes a constant currency adjustment based on a GBP to USD exchange rate of 1.370. Analysis excludes the impact of April 2018 O'Brien acquisition. Cost breakdown excludes depreciation expense. CPH has an October fiscal year end.
(1) Based on weighted average.

Strong Unit Economics Across Both Concrete Pumping and Eco-Pan

Concrete Pumping Unit Economics

BRUNDAGE-BONE CONCRETE PUMPING

Camfaud

~25%
Unlevered ROI

~4-5 Years[1]
Payback Period

vs.

~20 Years
Useful Life of Assets

Eco-Pan Unit Economics

ECO-PAN℠

~54%
Unlevered ROI

~1.9 Years
Payback Period[2]

vs.

~20 Years
Useful Life of Assets

Note: Unit economics and return profile reflect historical and/or target results and may not be indicative of future returns.
(1) Payback periods vary between the U.S. and the U.K. and by asset type. Concrete pumping payback periods are net of trade-in or sale value for units sold at the end of their useful lives (typical salvage value of approximately 20%).
(2) Investment required for new route: one truck - $280,000; 65 Eco-Pans at ~$960 each = $61,000.


BRUNDAGE-BONE CONCRETE PUMPING
Camfaud
ECO-PAN℠
Concrete Pumping Holdings, Inc.

Appendices

Analysis of Shares Outstanding

Shares by Type	Common Stock Outstanding as of December 6, 2018 (Closing Date)	Other Shares and Equivalents Outstanding Shares Underlying Convertible Securities[1,2]	 Shares Underlying Outstanding Warrants[3]	Total Potential Outstanding Stock (Fully Diluted)
Total Unrestricted Shares (Public Shares)	2,568,996	-	-	2,568,996
CPH Management & Employees (Current and Former)	2,942,048	2,380,210	-	5,322,258
Argand Partners	12,187,638	-	10,822,500	23,010,138
Peninsula Pacific	11,005,275	-	-	11,005,275
Non-Executive Directors[4]	143,750	-	277,500	421,250
Nuveen	-	2,450,980	-	2,450,980
Total Restricted Shares	26,278,711	4,831,190	11,100,000	42,209,901
Shares Underlying Public Warrants	-	-	23,000,000	23,000,000
Fully Diluted Total Outstanding Shares	28,847,707	4,831,190	34,100,000	67,778,897
Cumulative Fully Diluted Total Outstanding Shares[5]	**28,847,707**	**33,678,897**	**67,778,897**	**67,778,897**

1) CPH Management & Employees (Current and Former) hold i) 2,459,406 "in the money" options with a strike price of $0.87 (which results in a further 2,249,629 shares of Restricted Common Stock assuming a conversion stock price of $10.20/share based on the Treasury Stock Method), and ii) 324,073 "in the money" options with a strike price of $6.09 (which results in a further 130,581 shares of Restricted Common Stock assuming a conversion stock price of $10.20/share based on the Treasury Stock Method).

2) Nuveen may elect to convert its Preferred Stock into shares of Common Stock at a 1:1 ratio at any time six months after the Closing Date. The total number of shares of Common Stock into which the Preferred Stock will be converted will be 2,450,980 shares of Common Stock (subject to anti-dilution protection rights afforded to the holder of the Preferred Stock) at $10.20/share.

3) Each warrant entitles its holders to purchase one share of Common Stock at an exercise price of $11.50/share. The warrants held by Argand Partners and Non-Executive Directors can be exercised on a cashless basis, but are assumed to be exercised for cash in this analysis. All warrants become exercisable 30 days after the completion of the initial business combination. The Company may redeem the outstanding warrants at a price of $0.01 per warrant if the last sale price of the Common Stock equals or exceeds $18.00/share for 20 out of 30 trading days.

4) Non-Executive Directors includes 57,500 shares of Common Stock and 111,000 Warrants held by Tom Armstrong and Gerry Rooney who were Directors of Industrea Acquisition Corp., but not on the Board of the Company.

5) Cumulative Fully Diluted Total Outstanding Shares in the "Other Shares and Equivalents Outstanding" columns represent the cumulative amount of outstanding shares of Common Stock if each of the potential events in items 1, 2 and 3 above were to occur in the order presented.

Credit Facilities Summary

Credit Facilities	- $357m Term Loan Facility - $60m ABL Revolver
Interest Rate	- Term Loan Facility: Libor + 600bps - ABL Revolver: Libor + 175-225bps based on leverage levels
Tenor	- Term Loan Facility: 7 Years - ABL Revolver: 5 Years
Term Loan Amortization	- 1.25% per quarter, bullet at maturity. Amortization starts the 1st full fiscal quarter following the closing date
Term Loan Call Protection	- 101 Soft Call for 12 Months
Incremental	- Term Loan Facility: Greater of $40m and 0.5x EBITDA free and clear, plus unlimited at 3.5x net first lien leverage - ABL Revolver: Up to $30m
Financial Covenants	- Term Loan Facility: None - ABL Revolver: Springing 1:1 Fixed Charge Coverage Ratio if at any time total Excess Availability is less than the greater of (i) 10% of the Line Cap, (ii) $5m, and (iii) 12.5% of the U.K. Borrowing Base

Select CPH Marquee Projects

Crossrail Liverpool Street Station

- London, U.K.
- Deep, irregularly shaped moorgate shaft that had to be watertight
- Camfaud poured **1,900+** yards of concrete on the project

Broadway Bridge

- Little Rock, AR
- Massman Construction contract for Broadway Bridge replacement project
- **2,786** foot-long concrete and steel arch bridge
- Brundage-Bone laid ~**1,000** yards of concrete during the 21-month time frame using various pumps, including 32 meters, 36Zs, 36 meters and 41 meters

Other Select Concrete Pumping Projects

Old Trafford Stadium
Manchester, U.K.

Howard Hanson Dam
Seattle, WA

Perimeter Summit Office Towers
Atlanta, GA

CPH in Action

- Brundage-Bone, Pacific Northwest Highway Project
- Brundage-Bone, Salt Lake City Airport Terminal
- Brundage-Bone, Seattle Construction Mat Pour
- Brundage-Bone, University of Tennessee
- Brundage-Bone, Westin Denver Airport
- Brundage-Bone, Concrete Boom Pump Song
- Camfaud, Brighton BA i360 Observation Tower
- Camfaud, Queens Park and Paddington Track Renewal
- Eco-Pan, Home Site Project

Robust, Specialized Fleet of Mobile Pumping Equipment

CPH's Approach to Fleet Management

- Acquire new equipment to replace equipment near the end of its useful life
- Employ outstanding mechanics to ensure fleet is well maintained
- Leverage scale and mobility of fleet to maximize utilization
- Reduce growth capex by utilizing equipment procured from acquisitions
- CPH owns entire fleet; no equipment leasing

CPH Fleet Overview

(Pump lengths in meters; average age and useful life in years)

Equipment Type	Fleet Count	Average Age	Expected Useful Life
Up to 32m	205	10.2	20
34m to 43m	251	10.9	20
45m to 47m	85	8.4	18
52m+	76	6.4	12
Total Booms	**617**	**9.8**	**19**
Stationary / Other	**252**	**7.7**	**20**
Placing Booms	**56**	**9.1**	**25**
Telebelts	**16**	**8.3**	**15**
Grand Total	**941**	**9.2**	**19+**

Note: Fleet profile as of July 31, 2018. Includes impact of April 2018 O'Brien acquisition.

Reconciliation of Non-GAAP Measures

(US$ in millions)	Years Ended October 31, FY2015	FY2016	FY2017
Pro Forma Revenue			
Revenue, reported	$ 147,361	$ 172,426	$ 211,211
U.K. Concrete Pumping - Camfaud revenue (pre-acquisition)	45,685	50,530	8,357
O'Brien revenue (pre-acquisition)	11,182	13,563	13,796
Pro Forma Revenue	204,228	236,519	233,364
Constant currency adjustment[1]	(5,000)	(814)	3,277
Pro Forma Adjusted Revenue	$ 199,228	$ 235,705	$ 236,641
Net income, reported	$ 3,509	$ 6,234	$ 913
U.K. Concrete Pumping - Camfaud net income (pre-acquisition)	10,057	11,341	404
O'Brien net income (pre-acquisition)	3,702	4,799	4,909
Pro Forma Net Income	17,268	22,374	6,226
Interest expense, reported	$ 20,492	$ 19,516	$ 22,748
U.K. Concrete Pumping - Camfaud interest expense (pre-acquisition)	575	565	588
O'Brien interest expense (pre-acquisition)	38	-	-
Pro Forma Interest Expense	21,105	20,081	23,336
Income tax expense / (benefit), reported	$ 2,020	$ 4,454	$ 3,757
U.K. Concrete Pumping - Camfaud income tax expense (pre-acquisition)	-	141	87
O'Brien income tax expense (pre-acquisition)	-	-	-
Pro Forma Income Tax Expense	2,020	4,595	3,844
Depreciation and amortization, reported	$ 20,603	$ 22,310	$ 27,154
U.K. Concrete Pumping - Camfaud depreciation and amortization (pre-acquisition)	3,607	3,984	1,025
O'Brien depreciation and amortization (pre-acquisition)	-	-	93
Pro Forma Depreciation and Amortization	24,210	26,294	28,272
Pro Forma EBITDA	64,604	73,344	61,678
EBITDA adjustments:			
Debt refinancing costs	$ 964	$ 691	$ 5,401
Acquisition costs	290	3,644	4,343
One-time employee costs[2]	-	29	997
Other adjustments[3]	2,461	4,761	4,964
Constant currency adjustment[1]	(1,626)	(247)	1,031
Pro Forma Adjusted EBITDA	$ 66,692	$ 82,222	$ 78,414
Pro Forma Capex			
Maintenance Capex	12,438	19,311	12,747
Growth Capex	17,283	11,323	10,484
Pro Forma Total Capex	29,721	30,634	23,231
Adjusted Free Cash Flow[4]	$ 36,971	$ 51,588	$ 55,183

Note: CPH's U.K. segment (Camfaud) was acquired in November 2016 and is consolidated in the fiscal year ended October 31, 2017 financial statements. Financial results of Camfaud are captured separately prior to this date and are labeled as "pre-acquisition," and are consolidated within CPH's "reported" financials for periods after November 2016. O'Brien was acquired in April 2018 and its financial results are included as "pre-acquisition" financials for 2017, 2016 and 2015.

(1) Constant currency based on a GBP to USD exchange rate of 1.370.

(2) One-time employee costs include severance, relocation, hiring and recruiting expenses.

(3) Other adjustments include management & board fees, transaction-related and other non-ordinary course legal fees, stock option expense, start-up costs, and other transaction-oriented, project-oriented, normalizing and non-operating income/expense items.

(4) Adjusted Free Cash Flow defined as Pro Forma Adjusted EBITDA - Pro Forma Total Capex.

CONCRETE PUMPING HOLDINGS

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Investor Relations
Liolios Group
Cody Slach
949-574-3860
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Exhibit 99.3

Report of Independent Registered Public Accounting Firm

Board of Directors and Shareholders
Concrete Pumping Holdings, Inc.

Opinion on the Consolidated Financial Statements

We have audited the accompanying consolidated balance sheets of Concrete Pumping Holdings, Inc. and Subsidiaries (the "Company") as of October 31, 2017, and 2016, the related consolidated statements of income and comprehensive income, stockholders' equity, and cash flows for each of the three years in the period ended October 31, 2017, and the related notes (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company and subsidiaries at October 31, 2017 and 2016, and the results of their operations and their cash flows for each of the three years in the period ended October 31, 2017**,** in conformity with accounting principles generally accepted in the United States of America.

Basis for Opinion

These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's consolidated financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB and in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. The company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting, 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. Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ BDO USA, LLP

We have served as the Company's auditor since 2018.
Dallas, Texas
September 10, 2018, except for Note 14 and the related earnings per share disclosures, as to which the date is December 7, 2018

CONCRETE PUMPING HOLDINGS, INC. AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS
October 31, 2017 and 2016

	2017	2016
Assets		
Current assets:		
Cash	**$ 6,925,042**	$ 3,248,520
Trade receivables, net	**33,101,052**	24,873,490
Inventory	**3,009,651**	1,754,295
Prepaid expenses and other current assets	**3,668,835**	2,422,097
Total current assets	**46,704,580**	32,298,402
Property, plant and equipment, net	**175,542,135**	138,686,332
Intangible assets, net	**42,034,188**	28,940,816
Goodwill	**73,509,208**	54,400,319
Deferred financing costs, net	**1,056,516**	603,600
Total assets	**$ 338,846,627**	$ 254,929,469
Liabilities and Stockholders' Equity		
Current liabilities:		
Revolving loan	**$ 65,888,871**	$ 3,607,239
Current portion of capital lease obligations	**193,039**	72,702
Accounts payable	**7,116,901**	2,853,184
Accrued payroll and payroll expenses	**6,902,666**	5,346,668
Accrued expenses and other current liabilities	**14,622,122**	18,465,166
Income taxes payable	**1,577,923**	1,237,970
Total current liabilities	**96,301,522**	31,582,929
Long term debt, net of discount and deferred financing costs	**156,984,830**	142,253,608
Contingent consideration	**968,783**	—
Capital lease obligations, less current portion	**652,752**	731,829
Deferred income taxes	**50,111,326**	43,263,784
Total liabilities	**305,019,213**	217,832,150
Commitments & Contingencies (Note 11)		
Redeemable preferred stock, $0.001 par value, 2,342,264 and 2,423,711 shares authorized, issued and outstanding as of October 31, 2017 and 2016 (liquidation preference of $9,845,139 and $13,395,383), respectively	**14,671,869**	15,182,053
Stockholders' equity:		
Common stock, $0.001 par value, 15,000,000 shares authorized, 7,576,289 shares issued and outstanding	**7,576**	7,576
Additional paid-in capital	**18,444,075**	18,768,375
Accumulated other comprehensive income	**2,381,190**	—
(Accumulated deficit) retained earnings	**(1,677,296)**	3,139,315
	19,155,545	21,915,266
Total liabilities and stockholders' equity	**$ 338,846,627**	$ 254,929,469

See notes to consolidated financial statements.

CONCRETE PUMPING HOLDINGS, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF INCOME
Years Ended October 31, 2017, 2016 and 2015

	2017	2016	2015
Revenue	$ 211,210,599	$ 172,425,547	$ 147,360,701
Cost of operations	121,451,499	97,241,773	84,515,991
Gross profit	**89,759,100**	**75,183,774**	**62,844,710**
General and administrative expenses	52,864,910	40,590,760	35,656,016
Transaction costs	4,489,517	3,691,466	1,253,529
Income from operations	**32,404,673**	**30,901,548**	**25,935,165**
Other (expense) income:			
Interest expense	(22,747,848)	(19,516,077)	(20,491,654)
Loss on extinguishment of debt	(5,161,065)	(643,876)	-
Other income (expense), net	174,177	(54,463)	85,831
	(27,734,736)	(20,214,416)	(20,405,823)
Income before income taxes	**4,669,937**	**10,687,132**	**5,529,342**
Income tax provision	3,756,658	4,453,541	2,020,112
Net income	**913,279**	**6,233,591**	**3,509,230**
Less: Net loss attributable to noncontrolling interest	-	(36,364)	(45,435)
Net income attributable to Concrete Pumping Holdings, Inc. and Subsidiaries	**$ 913,279**	**$ 6,269,955**	**$ 3,554,665**
Less preferred shares dividends	(1,811,837)	(1,695,122)	(1,477,866)
Less undistributed earnings allocated to preferred shares	-	(1,108,807)	(503,356)
Net (loss) income available to common shareholders	**$ (898,558)**	**$ 3,466,026**	**$ 1,573,443**
Weighted average common shares outstanding			
Basic	7,576,289	7,576,289	7,576,289
Diluted	7,576,289	8,279,321	7,589,324
Net (loss) income per common share			
Basic	**$ (0.12)**	**$ 0.46**	**$ 0.21**
Diluted	**$ (0.12)**	**$ 0.42**	**$ 0.21**

See notes to consolidated financial statements.

CONCRETE PUMPING HOLDINGS, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
Years Ended October 31, 2017, 2016 and 2015

	2017	2016	2015
Net income	**$ 913,279**	$ 6,269,955	$ 3,554,665
Other comprehensive income:			
Foreign currency translation adjustment	**2,381,190**	—	—
Total comprehensive income	**$ 3,294,469**	$ 6,269,955	$ 3,554,665

See notes to consolidated financial statements.

CONCRETE PUMPING HOLDINGS, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY
Years Ended October 31, 2017, 2016 and 2015

	Common Stock	Additional Paid-In Capital	Noncontrolling Interest	Accumulated Other Comprehensive Income	Retained Earnings (Accumulated Deficit)	Total
Balance, October 31, 2014	$ 7,576	$ 18,612,311	$ —	$ —	$ (6,685,305)	$ 11,934,582
Contribution from noncontrolling interest	—	—	73,500	—	—	73,500
Stock-based compensation	—	46,640	—	—	—	46,640
Net income (loss)	—	—	(45,435)	—	3,554,665	3,509,230
Balance, October 31, 2015	7,576	18,658,951	28,065	—	(3,130,640)	15,563,952
Stock-based compensation	—	109,424	—	—	—	109,424
Net income (loss)	—	—	(36,364)	—	6,269,955	6,233,591
Dissolution of noncontrolling interest	—	—	8,299	—	—	8,299
Balance, October 31, 2016	7,576	18,768,375	—	—	3,139,315	21,915,266
Stock-based compensation	—	362,345	—	—	—	362,345
Repurchase of stock options	—	(686,645)	—	—	—	(686,645)
Preferred stock purchased for retirement, not re-issuable	—	—	—	—	(889,825)	(889,825)
Preferred stock dividend	—	—	—	—	(4,840,065)	(4,840,065)
Net income	—	—	—	—	913,279	913,279
Foreign currency translation adjustment	—	—	—	2,381,190	—	2,381,190
Balance, October 31, 2017	**$ 7,576**	**$ 18,444,075**	**$ —**	**$ 2,381,190**	**$ (1,677,296)**	**$ 19,155,545**

See notes to consolidated financial statements.

CONCRETE PUMPING HOLDINGS, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS
Years Ended October 31, 2017, 2016 and 2015

	2017	2016	2015
Cash flows from operating activities:			
Net income	**$ 913,279**	$ 6,233,591	$ 3,509,230
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation	**19,338,884**	16,635,995	14,748,689
Deferred income taxes	**238,696**	3,754,628	(345,494)
Amortization of deferred financing costs	**1,863,641**	1,751,675	1,861,454
Accretion of debt discount	**275,400**	330,480	330,480
Amortization of debt premium	**(72,527)**	—	—
Amortization of intangible assets	**7,815,141**	5,673,548	5,854,764
Stock-based compensation expense	**362,345**	109,424	46,640
Write-off of deferred financing costs included in loss on extinguishment of debt	**1,972,574**	931,838	—
Write-off of debt discount costs included in loss on extinguishment of debt	**1,473,392**	—	—
Debt prepayment penalty included in loss on extinguishment of debt	**1,440,000**	—	—
Loss (gain) on repayments of long-term debt included in loss on extinguishment of debt	**303,420**	(287,962)	—
Dissolution of noncontrolling interest	**—**	8,299	—
(Gain) loss on the sale of property, plant and equipment	**(567,876)**	(384,988)	277,755
Accretion of contingent consideration	**—**	—	117,000
Net changes in operating assets and liabilities (net of acquisitions):			
Trade receivables, net	**212,586**	(673,660)	(4,110,004)
Inventory	**(461,824)**	(473,187)	(536,092)
Prepaid expenses and other current assets	**(232,495)**	(1,015,506)	(284,224)
Income taxes receivable/payable, net	**(1,277,467)**	(1,025,689)	5,160,114
Accounts payable	**2,005,714**	74,811	892,914
Accrued payroll, accrued expenses and other current liabilities	**(1,376,489)**	4,114,143	(1,968,756)
Net cash provided by operating activities	**34,226,394**	35,757,440	25,554,470
Cash flows from investing activities:			
Purchases of property, plant and equipment	**(23,671,035)**	(22,570,712)	(12,685,165)
Proceeds from sale of property, plant and equipment	**1,009,523**	247,041	214,539
Acquisition of net assets, net of cash acquired	**(60,427,249)**	(6,650,000)	(1,133,500)
Payment of working capital adjustments (Note 3)	**—**	—	(4,506,356)
Net cash used in investing activities	**(83,088,761)**	(28,973,671)	(18,110,482)

See notes to consolidated financial statements.

CONCRETE PUMPING HOLDINGS, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS – (continued)
Years Ended October 31, 2017, 2016 and 2015

	2017	2016	2015
Cash flows from financing activities:			
Proceeds on revolving loan	**266,604,233**	155,447,066	102,875,161
Payments on revolving loan	**(205,163,292)**	(151,839,827)	(106,176,110)
Proceeds on long term debt	**40,400,000**	—	—
Principal payments on long term debt	**(39,104,760)**	(18,352,038)	—
Payment of deferred financing costs	**(1,454,364)**	—	—
Debt prepayment penalty	**(1,440,000)**	—	—
Payments on capital lease obligations	**(151,141)**	(68,003)	(36,716)
Preferred stock purchase	**(1,400,009)**	—	—
Payment of preferred stock dividends	**(4,840,065)**	—	—
Repurchase of stock options	**(686,645)**	—	—
Payment of contingent consideration	—	—	(500,000)
Contribution from noncontrolling interest	—	—	73,500
Net cash provided by (used in) financing activities	**52,763,957**	(14,812,802)	(3,764,165)
Effect of foreign currency exchange rate on cash	**(225,068)**	—	—
Net increase (decrease) in cash	**$ 3,676,522**	$ (8,029,033)	$ 3,679,823
Cash:			
Beginning of year	**$ 3,248,520**	$ 11,277,553	$ 7,597,730
End of year	**$ 6,925,042**	$ 3,248,520	$ 11,277,553
Supplemental cash flow information:			
Cash paid for interest	**$ 22,653,135**	$ 17,680,951	$ 18,767,409
Cash paid (received) for income taxes	**$ 4,356,081**	$ 1,724,602	$ (2,787,392)
Property, plant and equipment acquired through capital leases	**$ —**	$ —	$ 909,250
Equipment purchases included in accrued expenses	**$ 2,172,115**	$ 6,015,009	$ 8,180,990

See notes to consolidated financial statements.

Note 1. Organization and Description of Business

Organization: Concrete Pumping Holdings, Inc. (CPH, the Company or Parent) was incorporated in the state of Delaware on July 14, 2014. Concrete Pumping Intermediate Holdings, LLC (CPIH), a wholly-owned subsidiary of CPH, was formed on June 16, 2014, as a Delaware limited liability company to acquire, through the creation of BB Merger Sub, Inc. (BBMI) and EP Merger Sub, Inc. (EPMI), all outstanding stock of Brundage-Bone Concrete Pumping, Inc. (BBCPI, BB, or Brundage-Bone) and Eco-Pan, Inc. (Eco-Pan or EP) on August 18, 2014 (the Merger). BBMI and EPMI were formed on July 23, 2014, as Colorado corporations and wholly-owned subsidiaries of CPIH to merge with and into BBCPI and EP, respectively, with BBCPI and EP being the surviving corporations. Brundage-Bone and Eco-Pan are wholly-owned subsidiaries of CPIH. Concrete Pumping Property Holdings, LLC (PropCo), a wholly-owned subsidiary of CPH, was incorporated in the state of Delaware on July 14, 2014, to hold certain real property that is leased to BBCPI. CPH, CPIH, BBMI and EPMI commenced operations on August 18, 2014. The equity sponsor is Peninsula Pacific Strategic Partners, LLC (the Sponsor).

Nature of business: Brundage-Bone was incorporated in the state of Colorado on October 31, 2011. Brundage-Bone is a concrete pumping service provider in the United States. Brundage-Bone's core business is the provision of concrete pumping services to general contractors and concrete finishing companies. Brundage-Bone is a construction services business that provides specialized equipment with technically trained operators. Most often equipment returns to a "home base" nightly. Brundage-Bone does not contract to purchase, mix, or to deliver concrete. Brundage-Bone most often contracts for its services on a per hour and per yard poured schedule customized to each market. In addition, Brundage-Bone actively sells concrete pumps, parts and service, however, the sale of parts are not a significant component of Brundage-Bone operations. Brundage-Bone has operations in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Missouri, New Mexico, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Utah, Washington and Wyoming, with its corporate headquarters in Denver, Colorado.

Eco-Pan was incorporated in the state of Colorado on April 4, 2003. Eco-Pan provides industrial cleanup and containment services, primarily to customers in the construction industry. Eco-Pan uses containment pans specifically designed to hold waste products from concrete and other industrial cleanup operations. Eco-Pan has operating locations in Arizona, California, Colorado, Idaho, Maryland, Oklahoma, Oregon, Utah, Washington and Texas, with its corporate headquarters in Denver, Colorado.

In May 2015, Eco-Pan formed a joint venture, Eco-Pan Midwest, LLC (EPMW), with an initial capital contribution of $76,500, which represented 51 percent of the outstanding membership interests in EPMW. EPMW was dissolved in 2016. See Note 2 regarding principles of consolidation related to EPMW.

In November 2016, Brundage-Bone entered into two share purchase agreements to acquire two concrete pumping companies based in the United Kingdom (UK) (collectively, Camfaud): Camfaud Concrete Pumps Limited and Premier Concrete Pumping Limited, which each also owned 50 percent of the stock of South Coast Concrete Pumping Limited. In connection with the transactions, a new entity, Oxford Pumping Holdings Ltd. (Oxford), was created as a wholly-owned subsidiary of Brundage-Bone to serve as a UK-based holding company. In July 2017, Oxford acquired Reilly Concrete Pumping Limited (Reilly), another UK-based concrete pumping company. As a result of these transactions, the UK based companies collectively make up Camfaud. Refer to Note 3 for discussion of the acquisitions.

Camfaud is a concrete pumping service provider in the UK. Camfaud's core business is the provision of concrete pumping equipment to customers in the commercial, infrastructure and residential sectors. Camfaud is a construction services business that provides specialized concrete pumping equipment with technically trained operators. Camfaud provides the equipment operator and the equipment. Camfaud does not contract to purchase, mix or to deliver concrete. Camfaud most often contracts for its equipment services on a daily, weekly or monthly schedule customized to each market. Camfaud has 28 branch locations throughout the UK, with its corporate headquarters in Epping, Essex.

Note 2. Summary of Significant Accounting Policies

Basis of presentation: The Company follows accounting standards established by the Financial Accounting Standards Board (FASB) to ensure consistent reporting of financial condition, results of operations, and cash flows. References to generally accepted accounting principles (U.S. GAAP) in these footnotes are to the FASB Accounting Standards Codification (ASC or the Codification).

Principles of consolidation: These financial statements present the consolidated financial position of the Company and its wholly-owned subsidiaries, Brundage-Bone, Camfaud, Eco-Pan, PropCo, and their respective subsidiaries (collectively, the Company) as of October 31, 2017, and 2016, and the results of operations and cash flows for the three years then ended. The accounts of EPMW have also been included in the Company's consolidated financial statements. In accordance with ASC 810, *Consolidation*, the portion of the Company's equity attributable to the noncontrolling interest in EPMW has been reported separately within the stockholders' equity section of the consolidated balance sheets and the Company's portion of the net loss attributable to the noncontrolling interest in EPMW is also reported separately below net income on the consolidated statements of income. All significant intercompany accounts and transactions have been eliminated in consolidation.

Use of estimates: The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amount 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 period. Actual results could differ from those estimates. Significant estimates include accrued sales and use taxes, the liability for incurred but unreported claims under various partially self-insured polices, allowance for doubtful accounts, goodwill impairment analysis, valuation of share based compensation and accounting for business combinations. Actual results may differ from those estimates, and such differences may be material to the Company's consolidated financial statements.

Cash: Cash includes time deposits and certificates of deposit with original maturities of three months or less.

Trade receivables: Trade receivables are carried at the original invoice amount less an estimate made for doubtful receivables based on a review of all outstanding amounts. Generally, the Company does not require collateral for their accounts receivable; however, the Company may file statutory liens or take other appropriate legal action when necessary on construction projects in which collection problems arise. A trade receivable is considered to be past due if any portion of the receivable balance is outstanding for more than 30 days. The Company does not charge interest on past due trade receivables.

Management determines the allowance for doubtful accounts by identifying troubled accounts and by using historical experience applied to an aging of accounts. The allowance for doubtful accounts was $601,760, and $456,218 as of October 31, 2017, and 2016, respectively. Trade receivables are written off when deemed uncollectible. Recoveries of trade receivables previously written off are recorded when received.

Inventory: Inventory consists primarily of replacement parts for concrete pumping equipment. Inventories are stated at the lower of cost (first-in, first-out method) or net realizable value. The Company evaluates inventory and records an allowance for obsolete and slow-moving inventory to account for cost adjustments to market. Based on management's analysis, no allowance for obsolete and slow-moving inventory was required as of October 31, 2017, and 2016.

Note 2. Summary of Significant Accounting Policies – (Continued)

Fair Value Measurements: The FASB's standard on fair value measurements establishes a fair value hierarchy that requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. A financial instrument's categorization within the fair value hierarchy is based upon the lowest level of input that is significant to the fair value measurement. This standard establishes three levels of inputs that may be used to measure fair value:

Level 1 — Quoted prices in active markets for identical assets or liabilities.

Level 2 — Observable inputs other than Level 1 prices such as quoted prices for similar assets or liabilities.

Level 3 — Unobservable inputs to the valuation methodology that are significant to the measurement of fair value of assets or liabilities.

Deferred financing costs: The Company incurred closing costs of $12,887,000 during the Merger related to obtaining loan financing. In conjunction with the Senior Note Exchange (Note 7 that occurred in September 2017, Brundage-Bone incurred $588,634 related to obtaining financing through additional term notes and $240,250 related to the US Revolver. In connection with the Company's acquisition of Camfaud, costs of $625,480 were incurred by Oxford related to the UK Revolver. Deferred financing costs related to the revolver are classified as assets and amortized on a straight-line basis over the term of the revolver, while deferred financing costs related to the term debt are shown as a direct deduction from the carrying amount of the liability and amortized over the terms of the related debt instruments under the effective interest method. Accumulated amortization related to the US Revolver fees as of October 31, 2017 and 2016, was $678,528 and $476,400, respectively. Accumulated amortization related to the UK Revolver fees as of October 31, 2017 was $210,699. See Note 7 for discussion of the term debt financing fees.

Goodwill: The Company accounts for goodwill under ASC 350, *Intangibles — Goodwill and Other* (ASC 350). The Company's goodwill was recorded as a result of the Company's business combinations. The Company has recorded these business combinations using the acquisition method of accounting. The Company tests its recorded goodwill for impairment on an annual basis on August 31, or more often if indicators of potential impairment exist, by determining if the carrying value of each reporting unit exceeds its estimated fair value. The Company has the option to first assess qualitative factors to determine whether or not it is more than likely that the fair value of the reporting unit is less than the fair value. If the result of a qualitative test indicates it is more likely than not that the fair value of a reporting unit is less than the carrying value, a quantitative test is performed. As further detailed in "Newly adopted accounting pronouncements" below, the Company adopted ASU 2017-04, and accordingly, goodwill impairment is recognized in the amount that the carrying value of the reporting unit exceeds the fair value of the reporting unit, not to exceed the amount of goodwill allocated to the reporting unit, based on the results of the Step 1 analysis.

In undertaking the qualitative assessment, the Company considered macro-economic, industry and reporting unit-specific factors. These included the effect of the current interest rate environment on the cost of capital; sustaining market share over the year; lack of turnover in key management; actual performance as compared to expected 2017 performance. Based on the qualitative assessment, having considered the factors in totality we determined it was not more likely than not that the carrying value of the U.K. reporting units exceeded its fair value. Significant changes in the external environment or substantial declines in the operating performance of the U.K. reporting units could cause us to reevaluate this conclusion in the future.

Note 2. Summary of Significant Accounting Policies – (Continued)

A quantitative assessment was performed on the remaining two reporting units. In performing the quantitative test, the Company compares the estimated fair value of the reporting unit to its carrying value. The estimated fair value exceeded the carrying value of each of the three reporting units. Had the estimated fair value of any reporting unit been less than its carrying value, the Company would have recognized an impairment expense for the amount of fair value in excess of the carrying value, however this amount would not exceed the carrying amount of goodwill.

Management has determined that the Company had 4 reporting units in 2017 and 2 reporting units in 2016 for the purposes of testing goodwill for impairment. As of October 31, 2017 and 2016, the Company determined that no impairment of goodwill existed because the estimated fair value of each reporting unit exceeded its carrying amount. Future impairment reviews may require write-downs in the Company's goodwill and could have a material adverse impact on the Company's operating results for the periods in which such write-downs occur.

Long-lived assets:

ASC 360 requires long-lived assets to be evaluated for impairment when indicators of impairment are present. If indicators are present, assets are grouped to the lowest level for which identifiable cash flows are largely independent of other asset groups and cash flows are estimated for each asset group over the remaining estimated life of each asset group. If the undiscounted cash flows estimated to be generated by the asset group is less than the asset's carrying amount, impairment is recognized in the amount of excess of the carrying value over the fair value. No indicators of impairment were identified as of October 31, 2017 and 2016. Intangible assets with finite lives are being amortized on a straight-line basis, except for customer relationships, over their estimated useful lives. The customer relationships are being amortized on an accelerated basis over their estimated useful lives.

Property, plant and equipment: Property, plant and equipment are recorded at cost. Expenditures for additions and betterments are capitalized. Expenditures for maintenance and repairs are charged to expense as incurred; however, maintenance and repairs that improve or extend the life of existing assets are capitalized. The carrying amount of assets disposed of and the related accumulated depreciation are eliminated from the accounts in the year of disposal. Gains or losses from property and equipment disposals are recognized in the year of disposal. Property, plant and equipment is depreciated using the straight line method over the following estimated useful lives:

Buildings and improvements	15 to 40 years
Capital lease assets – buildings	40 years
Furniture and office equipment	2 to 7 years
Machinery and equipment	3 to 25 years
Transportation equipment	3 to 7 years

Capital lease assets are being amortized over the estimated useful life of the asset (see Note 11). Capital lease amortization is included in depreciation expense for the years ended October 31, 2017, 2016 and 2015.

Revenue recognition: The Company generates revenues primarily from concrete pumping services in both the United States and the United Kingdom. Additionally, revenues are generated from the Company's waste management business which consists of service fees charged to customers for the delivery of our pans and containers and the disposal of the concrete waste material.

The Company recognizes revenue from these businesses when all of the following criteria are met: (a) persuasive evidence of an arrangement exists, (b) the service has been performed or delivery has occurred, (c) the price is fixed or determinable, and (d) collectability is reasonably assured. The Company's delivery terms for replacement part sales are FOB shipping point.

Note 2. Summary of Significant Accounting Policies – (Continued)

The Company imposes and collects sales taxes concurrent with our revenue-producing transactions with customers and remit those taxes to the various governmental authorities as prescribed by the taxing jurisdictions in which we operate. We present such taxes in our consolidated statements of income on a net basis.

Stock-based compensation: The Company follows ASC 718, *Compensation — Stock Compensation* (ASC 718), which requires the measurement and recognition of compensation expense, based on estimated fair values, for all share-based awards made to employees and directors. The value of the vested portion of the award is recognized as expense in the Company's consolidated statements of income over the requisite service periods. Compensation expense for all share-based awards is recognized using the straight-line method. The Company accounts for forfeitures as they occur in accordance with the early adoption of Accounting Standards Update (ASU) No. 2016-09, *Compensation — Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting.*

Earnings per share: The Company calculates earnings per share in accordance with ASC 260, Earnings per Share. The two-class method of computing earnings per share is required for entities that have participating securities. The two-class method is an earnings allocation formula that determines earnings per share for participating securities according to dividends declared (or accumulated) and participation rights in undistributed earnings. The Company has two classes of stock: (1) Common Stock and (2) Participating Preferred Stock ("Preferred Stock").

Basic earnings (loss) per common share is calculated by dividing net income (loss) attributable to common shareholders by the weighted average number of shares of Common Stock outstanding each period. Diluted earnings (loss) per common share is based on the weighted average number of shares outstanding during the period plus the common stock equivalents which would arise from the exercise of stock options outstanding using the treasury stock method and the average market price per share during the period. Common stock equivalents are not included in the diluted earnings (loss) per share calculation when their effect is antidilutive. An anti-dilutive impact is an increase in earnings per share or a reduction in net loss per share resulting from the conversion, exercise, or contingent issuance of certain securities.

Foreign currency translation: The functional currency of Camfaud is the Great British Pound (GBP). The assets and liabilities of the foreign subsidiaries are translated into US dollars using the year end exchange rates, and the consolidated statements of income are translated at the average rate for the year. The resulting translation adjustments are recorded as a component of comprehensive income on the consolidated statements of comprehensive income and accumulated in other comprehensive income. The functional currency of our other subsidiaries is the United States Dollar.

Income taxes: The Company complies with ASC Topic 740, *Income Taxes,* which requires a liability approach to financial reporting for income taxes. The Company computes deferred income tax assets and liabilities annually for differences between the financial statements and tax basis of assets and liabilities that will result in taxable or deductible amounts in the future based on enacted tax laws and rates applicable to the periods in which the differences are expected to affect taxable income. Valuation allowances are established when necessary to reduce deferred tax assets to the amount expected to be realized. Income tax expense includes both the current income taxes payable or refundable and the change during the period in the deferred tax assets and liabilities.

The tax benefit from an uncertain tax position is only recognized in the consolidated balance sheets if the tax position is more likely than not to be sustained upon an examination. CPIH and PropCo are no longer subject to U.S. federal, state and local income tax examinations by tax authorities for years before 2014. Interest and penalties related to income taxes are included in the income tax provision, if any.

Camfaud files income tax returns in the UK. Camfaud's national statutes are generally open for one year following the statutory filing period.

Business combinations: The Company applies the principles provided in ASC 805, *Business Combinations*, when a business is acquired. Tangible and intangible assets acquired and liabilities assumed are recorded at fair value and goodwill is recognized for any differences between the fair value of consideration transferred and the fair value of net assets acquired. Transaction costs for business combinations are expensed as incurred in accordance with ASC 805.

Concentration of credit risk: Cash balances held at financial institutions may, at times, be in excess of federally insured limits. It is management's belief that the Company places their temporary cash balances in high-credit quality financial institutions.

The Company's customer base is dispersed across the United States and the United Kingdom. The Company performs ongoing evaluations of their customers' financial condition and requires no collateral to support credit sales. For the years ended October 31, 2017, 2016 and 2015, no customer represented 10 percent or more of revenue or trade receivables.

Note 2. Summary of Significant Accounting Policies – (Continued)

Vendor Concentration: For the year ended October 31, 2017 there were 3 significant vendors the Company relied upon to purchase concrete pumping boom equipment. For the years ended October 31, 2016 and 2015 there were two. These vendors provided sales of concrete pumping boom equipment that can be replaced with alternate vendors should the need arise; however, risk does exist that a disruption in suppliers could negatively impact the Company.

Newly adopted accounting pronouncements: In May 2017, the Financial Accounting Standards Board (FASB) issued ASU No. 2017-09, *Compensation — Stock Compensation (Topic 718): Scope of Modification Accounting,* to provide guidance about which changes to the terms or conditions of a share-based payment award require an entity to apply modification accounting in ASC 718. The amendments in the ASU are effective for fiscal years beginning after December 15, 2017, and should be applied prospectively to an award modified on or after the adoption date. The Company elected to early adopt the amendment as of August 1, 2017, which did not have a material impact on the consolidated financial statements.

In January 2017, the FASB issued ASU No. 2017-04, *Intangibles — Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment*. The ASU simplifies the measurement of goodwill impairment by eliminating the requirement that an entity compute the implied fair value of goodwill based on the fair values of its assets and liabilities to measure impairment. Instead, goodwill impairment will be measured as the difference between the fair value of the reporting unit and the carrying value of the reporting unit. The ASU also clarifies the treatment of the income tax effect of tax deductible goodwill when measuring goodwill impairment loss. ASU 2017-04 will be effective for the Company beginning on November 1, 2022. The amendment must be applied prospectively with early adoption permitted. The Company elected to early adopt the amendment for the year ended October 31, 2017, which did not have a material impact on the consolidated financial statements.

In March 2016, the FASB issued ASU 2016-06, "Derivatives and Hedging (Topic 815): Contingent Put and Call Options in Debt Instruments", which clarify the requirements for assessing whether contingent call (put) options that can accelerate the payment of principal on debt instruments are clearly and closely related to their debt hosts. An entity performing the assessment under the amendments in this update is required to assess the embedded call (put) options solely in accordance with the four-step decision sequence. The Company early adopted the new standard as of November 1, 2016. The adoption of the new accounting rules did not have a material impact on the Company's financial condition, results of operations and cash flows.

Recently issued accounting pronouncements not yet effective: In January 2017, the FASB issued ASU No. 2017-01, *Business Combinations (Topic 805): Clarifying the Definition of a Business,* which provides guidance to assist entities with evaluating whether transactions should be accounted for as acquisitions (or disposals) of assets or businesses. ASU 2017-01 requires entities to use a screen test to determine when an integrated set of assets and activities is not a business or if the integrated set of assets and activities needs to be further evaluated against the framework. ASU 2017-01 will be effective for the Company beginning on November 1, 2019. The Company is currently evaluating the impact of the pending adoption of the new standard on the consolidated financial statements.

In February 2016, the FASB issued ASU No. 2016-02, *Leases (Topic 842)*. The guidance in this ASU supersedes the leasing guidance in Topic 840, Leases. Under the new guidance, lessees are required to recognize lease assets and lease liabilities on the balance sheet for all leases with terms longer than 12 months. Leases will be classified as either finance or operating, with classification affecting the pattern of expense recognition in the income statement. The new standard is effective for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years. Initially, the modified retrospective transition approach is required for lessees for capital and operating leases existing at, or entered into after, the beginning of the earliest comparative period presented in the financial statements, with certain practical expedients available.

Note 2. Summary of Significant Accounting Policies – (Continued)

In July 2018, the FASB issued ASU No. 2018-11, *Leases (Topic 842): Targeted Improvements***,** wherein the Board decided to provide another transition method in addition to the existing transition method by allowing entities to initially apply the new leases standard at the adoption date (such as January 1, 2019, for calendar year-end public business entities) and recognize a cumulative-effect adjustment to the opening balance of retained earnings in the period of adoption consistent with preparers' requests. The Company is currently evaluating the impact of the pending adoption of the new standard on the consolidated financial statements.

In November 2015, the FASB issued ASU No. 2015-17, *Income Taxes (Topic 740): Balance Sheet Classification of Deferred Taxes.* This ASU simplifies the presentation of deferred income taxes by eliminating the requirement for entities to separate deferred tax liabilities and assets into current and noncurrent amounts in classified balance sheets. Instead, it requires deferred tax assets and liabilities be classified as noncurrent in the balance sheet. ASU 2015-17 is effective for financial statements issued for annual periods beginning after December 15, 2017. Early adoption is permitted, and this ASU may be applied either prospectively to all deferred tax liabilities and assets or retrospectively to all periods presented. The adoption of this standard is not expected to have a material impact on the Company's consolidated financial statements. Upon adoption of this standard on a retrospective basis, all deferred income tax assets and liabilities will be presented as noncurrent.

In May 2014, the FASB issued ASU No. 2014-09, *Revenue from Contracts with Customers (Topic 606)*, requiring an entity to recognize the amount of revenue to which it expects to be entitled for the transfer of promised goods or services to customers. The updated standard will replace most existing revenue recognition guidance in U.S. GAAP when it becomes effective and permits the use of either a full retrospective or retrospective with cumulative effect transition method. In August 2015, the FASB issued ASU 2015-14 which defers the effective date of ASU 2014-09 one year making it effective for annual reporting periods beginning after December 15, 2018. The Company has not yet selected a transition method and is currently evaluating the effect that the standard will have on the consolidated financial statements.

Note 3. Business Combinations

Reilly: In July 2017, Camfaud entered into a share purchase agreement to acquire all outstanding shares of Reilly, a UK based concrete pumping company, in exchange for cash and seller notes.

This acquisition qualifies as a business combination under ASC 805. Accordingly, the Company has recorded all assets acquired and liabilities assumed at their acquisition-date fair values, with any excess recognized as goodwill. Goodwill represents expected synergies from combining operations and the assembled workforce. Goodwill is not amortized for book purposes nor is it deductible for tax purposes. The acquisition was part of the Company's strategic plan to expand the Camfaud footprint in the United Kingdom.

Note 3. Business Combinations – (Continued)

The following table represents the total consideration transferred and its allocation to the assets acquired and liabilities assumed at their acquisition-date fair values:

Consideration paid:	
Cash, net of cash acquired	$ 11,267,729
Debt issued to sellers	1,941,150
Total consideration paid	$ 13,208,879
Net assets acquired:	
Trade accounts receivable	$ 1,624,598
Inventory	178,432
Prepaid expenses and other current assets	223,619
Property, plant and equipment	9,194,329
Intangible assets	1,194,454
Accounts payable	(533,129)
Accrued expenses and other current liabilities	(971,005)
Deferred tax liabilities	(879,069)
Total net assets acquired	10,032,229
Goodwill	$ 3,176,650

Identifiable intangible assets acquired consist of customer relationships of $552,581 and a trade name of $641,873. The customer relationships were valued using the multi-period excess earnings method. The Company determined the useful life of the customer relationships to be 15 years. The trade name was valued using the relief-from-royalty method. The Company determined the useful life of the trade name to be 10 years.

The Company also entered into loans with the former owners that are discussed in Note 7.

Acquisition-related expenses incurred by the Company amounted to $594,039, which is included in transaction costs in the consolidated statements of income for the year ended October 31, 2017.

Camfaud: In November 2016, Camfaud acquired two concrete pumping companies based in the UK.

This acquisition qualifies as a business combination under ASC 805. Accordingly, the Company has recorded all assets acquired and liabilities assumed at their acquisition-date fair values, with any excess recognized as goodwill. Goodwill represents expected synergies from combining operations and the assembled workforce. Goodwill is not amortized for book purposes nor is it deductible for tax purposes. The acquisition was part of the Company's strategic plan to broaden their global presence. The acquisition was financed through additional Senior Secured Notes, a revolving loan and the seller notes.

Note 3. Business Combinations – (Continued)

The following table represents the total consideration transferred and its allocation to the assets acquired and liabilities assumed at their acquisition-date fair values:

Consideration paid:	
Cash, net of cash acquired	$ 49,159,520
Debt issued to sellers	6,221,000
Contingent consideration	908,266
Total consideration paid	$ 56,288,786
Net assets acquired:	
Trade accounts receivable	$ 6,344,614
Inventory	564,833
Other current assets	726,679
Property and equipment	25,641,272
Intangible asses	18,574,662
Accounts payable	(1,579,842)
Accrued expenses and other current liabilities	(3,291,260)
Capital lease obligation	(183,405)
Deferred tax liabilities	(5,369,822)
Total net assets acquired	41,427,731
Goodwill	$ 14,861,055

The contingent consideration is based on average EBITDA over the 3-year period following the acquisition date and has a maximum payout of approximately $3,100,000. The Company has recorded the contingent consideration initially at fair value based on a probability-weighted approach, discounted to present value at an annual rate of 7.5 percent. The contingent consideration is presented as deferred consideration in the accompanying consolidated balance sheets and will be adjusted to fair value each reporting period until the contingency is resolved. No adjustment was considered necessary as of October 31, 2017 as fair value changes are not material.

Identifiable intangible assets acquired consist of customer relationships of $15,933,225 and trade names of $2,641,437. The customer relationships were valued using the multi-period excess earnings method. The Company determined the useful life of the customer relationships to be 15 years. The trade name was valued using the relief-from-royalty method. The Company determined the useful life of the trade names to be 10 years.

The Company also entered into loans with the former owners that are discussed in Note 7.

Acquisition-related expenses incurred by the Company amounted to $6,608,456, of which $3,566,407 and $3,042,049 have been recognized in the consolidated statements of income for the year ended October 31, 2017 and 2016, respectively.

Action Concrete Pumping and Darts Equipment: During November 2015, BB entered into an asset purchase agreement with Action Concrete Pumping, Inc. and Darts Equipment, LLC (collectively, Action) to acquire substantially all of the assets of Action. Action does business in South Carolina, Tennessee, Georgia and Alabama. The acquisition was part of the Company's strategic plan to increase their presence in the Southeastern market.

Note 3. Business Combinations – (Continued)

This acquisition qualifies as a business combination under ASC 805. Accordingly, the Company has recorded all assets acquired and liabilities assumed at their acquisition-date fair values, with any excess recognized as goodwill. Goodwill represents expected synergies from combining operations and the assembled workforce. Goodwill is not amortized for book purposes and $369,165 is deductible for tax purposes. The Company has also recognized identifiable intangible assets under the provisions of ASC 805.

The following table represents the total consideration transferred and its allocation to the assets acquired and liabilities assumed at their acquisition-date fair values:

Consideration paid:	
Cash	$ 5,600,000
Total consideration paid	$ 5,600,000
Net assets acquired:	
Other current assets	$ 6,085
Property and equipment	5,174,750
Non-compete intangible asset (useful life of 3 years)	50,000
Total net assets acquired	5,230,835
Goodwill	$ 369,165

The Asset Purchase Agreement (APA) included a provision for additional consideration to be paid to the sellers based on certain EBITDA targets in three tranches. The first earnout tranche requires payment of up to $450,000 based on achievement of certain EBITDA levels for any 12 consecutive months during the 18 month period following the acquisition date. The second earnout tranche requires payment of up to $450,000 based on achievement of certain EBITDA levels for any 12 consecutive months during the 24 month period following the acquisition date. The third earnout tranche requires payment of up to $50,000 based on achievement of certain EBITDA levels for the 12 months beginning on the 1st anniversary of the acquisition date and ending on the last day of the 24th calendar month thereafter. The maximum possible payments under the earnout provision is $950,000. The Company determined the fair value of the contingent consideration under ASC 805 using a probability-weighted approach to be $0 at acquisition date and at October 31, 2016. No amounts were paid out under the APA.

Acquisition-related expenses incurred by the Company of $94,069 have been recognized in the consolidated statements of income for the year ended October 31, 2016.

Solid Rock Concrete Pumping: During November 2015, BB entered into an asset purchase agreement with Solid Rock Concrete Pumping (Solid Rock) to acquire substantially all of the assets of Solid Rock. Solid Rock operates in Texas. The acquisition was part of the Company's strategic plan to increase their presence in the Texas market.

This acquisition qualifies as a business combination under ASC 805. Accordingly, the Company has recorded all assets acquired and liabilities assumed at their acquisition-date fair values, with any excess recognized as goodwill. The Company has also recognized identifiable intangible assets under the provisions of ASC 805.

Note 3. Business Combinations – (Continued)

The following table represents the total consideration transferred and its allocation to the assets acquired and liabilities assumed at their acquisition-date fair values:

Consideration paid:	
Cash	$ 1,050,000
Total consideration paid	$ 1,050,000
Net assets acquired:	
Other current assets	$ 12,000
Property and equipment	650,000
Intangible assets (weighted average useful life of 4.5 years)	388,000
Total net assets acquired	1,050,000
Goodwill	$ —

Acquisition-related expenses incurred by the Company of $34,426 have been recognized in the consolidated statements of income for the year ended October 31, 2016.

2015 Acquisitions: During August 2015, the Company entered into asset purchase agreements with three companies, AJ Concrete Pumping, LLC (AJ), L&G Leasing, LLC (L&G) and Kenyon Concrete Pumping, Inc. (Kenyon). AJ and L&G have common owners and have been treated as a single business combination. All three companies are located in South Carolina. The acquisitions were part of the Company's strategic plan to establish a larger presence in the South Carolina market. During September 2015, the Company entered into an asset purchase agreement with TGP, Inc. (d/b/a Dyna-Pump). The acquisition was part of the Company's strategic plan to increase their market share in Texas.

The four acquisitions qualify as business combinations under ASC 805. Accordingly, the Company has recorded all assets acquired and liabilities assumed at their acquisition-date fair values, with any excess recognized as goodwill. Goodwill represents expected synergies from combining operations and the assembled workforce. Goodwill is not amortized for book purposes and $159,000 is deductible for tax purposes. The Company has also recognized identifiable intangible assets related to non-compete agreements under the provisions of ASC 805.

The following table represents a summary of the total consideration transferred and its allocation to the assets acquired and liabilities assumed at their acquisition-date fair values:

	AJ and L&G	Kenyon	Dyna-Pump	Total
Cash paid	$ 1,400,000	$ 300,000	$ 310,000	$ 2,010,000
Net assets acquired:				
Property, plant and equipment	1,259,000	—	220,000	1,479,000
Intangible assets (weighted average useful life of 3 years)	100,000	150,000	85,000	335,000
Other assets	37,000	—	—	37,000
Total net assets acquired	1,396,000	150,000	305,000	1,851,000
Goodwill	$ 4,000	$ 150,000	$ 5,000	$ 159,000

Acquisition-related expenses incurred by the Company of $289,554 have been recognized in the consolidated statements of income for the year ended October 31, 2015.

Note 3. Business Combinations – (Continued)

In connection with the Merger described in Note 1, consideration of $4,256,356 for Brundage Bone and $250,000 for Eco Pan was paid to the respective sellers during fiscal 2015. The amounts were previously accrued in fiscal 2014 for final working capital adjustments related to the acquisitions.

The consideration transferred in the Merger Agreement included contingent consideration to be paid to the sellers based on certain EBITDA targets. The potential earnout totaled $500,000 and was paid during 2015.

Note 4. Fair Value Measurement

The carrying amounts of the Company's cash and cash equivalents, accounts receivable, accounts payable and current accrued liabilities approximate their fair value as recorded due to the short-term maturity of these instruments, which approximates fair value. The Company's outstanding obligations on its revolving line of credit and UK revolver are deemed to be at fair value as the interest rates on these debt obligations are variable and consistent with prevailing rates. The Company believes the carry value of our capital lease obligations represents fair value.

The Company's long-term debt instruments are recorded at their carrying values in the consolidated balance sheets, which may differ from their respective fair values. The fair value amount of the long-term debt instruments are derived from observable Level II inputs. The fair value amount of the Long-term debt instruments at October 31, 2017 and October 31, 2016 is presented in the table below based on the prevailing interest rates and trading activity of the Notes.

	2017		2016	
	Carrying Value	Fair Value	Carrying Value	Fair Value
Senior secured notes	$ 152,553,000	$ 156,366,825	$ 121,360,000	$ 131,068,800
Unsecured note	—	—	30,000,000	30,000,000
Seller notes	8,626,150	8,626,150	—	—
Capital lease obligations	845,791	845,791	—	—

In connection with the acquisition of Camfaud, shareholders were eligible to receive earn out payments of up to $3,100,000 if certain EBITDA targets were met (Note 3).

As a result, the Company estimated the fair value of the contingent earn out liability based on its probability assessment of Camfaud EBITDA achievements during the 3 year earn out period. In developing these estimates, the Company considered its revenue and EBITDA projections, its historical results, and general macro-economic environment and industry trends. This fair value measurement was based on significant revenue and EBITDA inputs not observed in the market, which represents a Level 3 measurement. Level 3 instruments are valued based on unobservable inputs that are supported by little or no market activity and reflect the Company's own assumptions in measuring fair value.

In accordance with the FASB's standard on business combinations, the Company reviewed the contingent earn out liability on a quarterly basis in order to determine its fair value. Changes in the fair value of the liability are recorded within operating expenses in the period in which the change was made. The change in the fair value of the contingent earn-out was not material from the date of acquisition to the year ending October 31, 2017.

Note 4. Fair Value Measurement – (Continued)

The following table represents a reconciliation of the change in the fair value measurement of the contingent earn out liability for the years ended October 31, 2017 the change in fair values for the periods presented are not material:

	2017
Beginning balance	$ —
Fair value of contingent earnout liability initially recorded in connection with Oxford acquisition	908,266
Change in fair value of contingent earnout liability included in operating expenses	—
Change fair value due to foreign currency	60,517
Ending balance	$ 968,783

The Company's non-financial assets, which primarily consist of property and equipment, goodwill and other intangible assets, are not required to be carried at fair value on a recurring basis and are reported at carrying value. However, on a periodic basis or whenever events or changes in circumstances indicate that their carrying value may not be fully recoverable (and at least annually for goodwill), non-financial instruments are assessed for impairment and, if applicable, written down to and recorded at fair value. No adjustments were made to the carrying value of any such assets due to lack of recoverability or impairment for the fiscal years ended October 31, 2017 or 2016.

Note 5. Property, Plant and Equipment

The significant components of property, plant and equipment as of October 31, 2017 and 2016, are as follows:

	2017	2016
Land, buildings and improvements	$ 21,986,324	$ 20,965,712
Capital leases – land and buildings	909,250	909,250
Machinery and equipment	199,185,640	147,184,935
Transportation equipment	2,961,147	2,236,628
Furniture and office equipment	888,504	529,458
	225,930,865	171,825,983
Less accumulated depreciation	(50,388,730)	(33,139,651)
Property, plant and equipment, net	$ 175,542,135	$ 138,686,332

Depreciation expense for the years ended October 31, 2017, 2016 and 2015, was $19,338,884, $16,635,995 and $14,748,689 respectively, of which $18,691,578, $16,311,540, $14,441,455 respectively, was included in cost of operations and $647,306, $324,455 and $307,234 respectively, was included in general and administrative expenses.

Note 6. Goodwill and Intangible Assets

The Company recognized goodwill and certain intangible assets in connection with Business Combinations (Note 3). Goodwill is not amortized for book purposes. The following table details the changes in goodwill as of October 31, 2017 and 2016:

Balance, October 31, 2015	$ 54,031,154
Goodwill acquired in 2016 acquisitions	369,165
Balance, October 31, 2016	54,400,319
Goodwill acquired in 2017 acquisitions	18,037,705
Change in foreign currency rates	1,071,184
Balance, October 31, 2017	$ 73,509,208

Note 6. Goodwill and Intangible Assets – (Continued)

Intangible assets are amortized over their useful lives on a straight-line basis, except for the customer relationships and the Camfaud trade names. The customer relationships and the Oxford Group trade names are amortized on an accelerated basis using the free cash flow method. The following table summarizes the Company's intangible assets as of October 31, 2017 and 2016:

	2017					2016		
	Useful Life	Weighted Average Useful Life	Gross Carrying Value	Accumulated Amortization	Net Carrying Amount	Gross Carrying Value	Accumulated Amortization	Net Carrying Amount
Customer relationships	15	15	$45,521,514	$ (16,770,766)	$28,750,748	$27,960,000	$ (10,027,998)	$17,932,002
Trade names	15 – 20	19 – 70	15,546,675	(2,401,152)	13,145,523	12,071,000	(1,361,769)	10,709,231
Noncompete agreements	3	3	485,000	(347,083)	137,917	485,000	(185,417)	299,583
			$61,553,189	$ (19,519,001)	$42,034,188	$40,516,000	$ (11,575,184)	$28,940,816

Amortization expense recognized by the Company related to intangible assets was $7,815,141, $5,673,548 and $5,854,764 for the years ended October 31, 2017, 2016 and 2015, respectively. Amortization expense as it relates to the amortization of Intangible assets resides within General and Administrative expense on the statement of operations. The estimated aggregate amortization expense for intangible assets over the next five fiscal years ending October 31 and thereafter is as follows:

Years ending October 31:	
2018	$ 7,525,536
2019	6,507,896
2020	5,351,076
2021	3,758,250
2022	3,199,995
Thereafter	15,691,435
	$ 42,034,188

Note 7. Long Term Debt and Revolving Lines of Credit

Revolving line of credit: In connection with the Merger, on August 18, 2014, the Company entered into a revolving loan agreement (the Revolver) with a maximum borrowing capacity of $30,000,000, which was increased to $35,000,000 in November 2015. The Revolver bears interest at the LIBOR rate plus an applicable margin. The applicable margin resets quarterly and is (a) 2.25 percent, (b) 2.50 percent or (c) 2.75 percent if the quarterly average excess availability is (a) at least 66.67 percent, (b) less than 66.67 percent and at least 33.33 percent and (c) less than 33.33 percent, respectively. The Revolver expires on August 18, 2019. Interest is due monthly and the outstanding principal balance is due upon maturity. The Revolver is secured by substantially all assets of the Company and requires that the Company maintains a minimum fixed charge coverage ratio. In conjunction with the Senior Note Exchange (see below) in September 2017, the borrowing capacity was increased to $65,000,000 and the maturity date was extended to September 8, 2022. In addition, applicable margin for the interest rate was decreased to (a) 2.00 percent, (b) 2.25 percent or (c) 2.50 percent if the quarterly average excess availability is (a) at least 66.67 percent, (b) less than 66.67 percent and at least 33.33 percent and (c) less than 33.33 percent, respectively. On October 2, 2017, $35,000,000 of the Revolver balance was transferred to a 3-month line of credit with a separate LIBOR interest rate which was 3.56 percent as of October 31, 2017.

Note 7. Long Term Debt and Revolving Lines of Credit – (Continued)

The Revolver requires that the Company maintain a maximum ratio of total fixed charges, which include interest, principal payments, taxes and management fees to EBITDA (earnings before interest expense, taxes, depreciation and amortization) less capital expenditures during the term of the Revolver. As of October 31, 2017 and 2016 the Company was in compliance with the financial covenant under the Revolver.

The outstanding balance of the Revolver as of October 31, 2017 and 2016 was $44,597,240 and $3,607,239, respectively.

UK Revolver: In connection with the acquisition of Camfaud in November 2016 (see Note 3), the Oxford Group entered into a revolving loan agreement (the UK Revolver) with a maximum borrowing capacity of approximately $28,000,000. The UK Revolver bears interest at the LIBOR rate plus 2 percent and expires in November 2019. The UK Revolver is secured by substantially all assets of the Oxford Group. The outstanding balance of the UK Revolver as of October 31, 2017, was $21,291,631.

The UK Revolver requires that the Company maintain a maximum ratio of total fixed charges, which include interest, principal payments, taxes and management fees to EBITDA (earnings before interest expense, taxes, depreciation and amortization) less capital expenditures during the term of the Revolver. As of October 31, 2017, the Company was in compliance with the financial covenant under the Revolver.

Senior secured notes: To finance the Merger on August 18, 2014, the Company issued senior secured notes through a high-yield bond offering under SEC Rule 144A (Senior Notes). The offering raised $140,000,000 of proceeds for the Company. The Senior Notes mature on September 1, 2021, and bear interest at 10.375 percent per annum. Interest payments are due every March 1 and September 1 commencing March 1, 2015. Principal is due upon maturity. The Senior Notes are partially held by a shareholder of the Company, secured by substantially all assets of the Company and contain various non-financial covenants.

The Senior Notes contain a number of significant restrictive covenants. Such restrictive covenants, among other things, restrict, subject to certain exceptions, the Company's restricted subsidiaries' ability to incur additional indebtedness and make guarantees; create liens on assets; pay dividends and distributions or repurchase their capital stock; make investments, loans and advances, including acquisitions; engage in mergers, consolidations, dissolutions or similar transactions; sell or otherwise dispose of assets, engage in certain transactions with affiliates; enter into certain restrictive agreements.

To finance the acquisition of Camfaud (Note 3), in November 2016, the Company issued additional senior secured notes of $40,000,000 as an incremental borrowing with the same terms and form as the original Senior Notes.

In January 2016, the Company repurchased and retired approximately $7,665,000 of outstanding Senior Notes for a purchase price of approximately $7,205,100 plus accrued interest of approximately $292,000. In April 2016, the Company repurchased and retired $10,000,000 of outstanding Senior Notes for a purchase price of $10,150,000 plus accrued interest of approximately $164,000. In March 2017, the Company repurchased and retired approximately $3,000,000 of outstanding Senior Notes for a purchase price of approximately $3,090,000 plus accrued interest of approximately $5,000. In May 2017, the Company repurchased and retired approximately $2,807,000 of outstanding Senior Notes for a purchase price of approximately $2,975,000 plus accrued interest of approximately $54,000. In September 2017, the Company repurchased and retired approximately $3,000,000 of outstanding Senior Notes for a purchase price of approximately $3,045,000 plus accrued interest of approximately $24,000.

As a result of these repurchases, the Company recognized a loss (gain) of $303,420 and ($287,962) for the difference between the carrying amount of the Senior Notes, plus accrued interest, and the repurchase price, and also recognized a loss of $260,380 and $931,838 related to the write off of deferred loan fees (Note 2) for the years ended October 31, 2017 and 2016, respectively. The net loss has been presented in the accompanying consolidated statements of income as a loss on extinguishment of debt for the years ended October 31, 2017 and 2016. The difference between the carrying amount and the reacquisition price of the debt, net of unamortized loan fees, has been presented in the accompanying consolidated statements of income as a (loss) gain on debt extinguishment.

Note 7. Long Term Debt and Revolving Lines of Credit – (Continued)

On August 24, 2017, the Company issued a Notice of Early Tender to exchange their Senior Notes for newly issued senior secured notes (New Senior Notes). Substantially all investors exchanged their outstanding notes (the Senior Note Exchange), which settled in September 2017. The New Senior Notes bear interest at 10.375 percent per annum and mature on September 1, 2023. The Company will make interest payments on March 1 and September 1 of each year. The outstanding balance of the original Senior Notes outstanding as of October 31, 2017 and 2016, was $1,266,000 and $121,360,000, respectively. The outstanding balance of the New Senior Notes outstanding as of October 31, 2017, was $151,287,000.

After settlement of the New Senior Notes, the Company increased the total borrowing capacity of the Revolver, for which the proceeds were used to pay off the unsecured note and to pay accrued and unpaid dividends on the 13.5 percent participating preferred stockholders (Note 12).

Unsecured note: To finance the Merger, on August 18, 2014, the Company entered into a $30,000,000 loan agreement with one of its shareholders. The note matures on February 18, 2022, and bears interest at 12 percent per annum. Interest payments are due quarterly on February 18, May 18, August 18 and November 18 every year. Principal, along with any accrued and unpaid interest, is due upon maturity. The Company may elect to have the interest paid-in kind (PIK). If the Company elects to pay PIK interest, the accrued interest will be added to the outstanding balance of the note and payable upon maturity. As of October 31, 2017 and 2016, all interest associated with the PIK has been paid by the Company. The unsecured notes contain various non-financial covenants.

As part of the unsecured note, the Company issued 1,000,000 shares of common stock to the lender. As such, the proceeds of the unsecured note have been allocated to the debt and common stock based on their relative fair values. The amount allocated to common stock was $2,478,602, which was recorded as a discount on the debt. The discount is amortized to interest expense over the remaining life of the loan using the effective interest method. During the years ended October 31, 2017, 2016 and 2015, amortization of the discount was $275,400, $330,480 and $330,480, respectively.

In connection with the Senior Note Exchange on September 8, 2017, the Company repaid the unsecured note, including accrued interest of $210,000. Upon extinguishment, the Company incurred a prepayment penalty fee of $1,440,000, which has been included in loss on debt extinguishment on the accompanying consolidated statements of income. The Company also wrote off the remaining unamortized discount of $1,473,392, which has also been included in loss on debt extinguishment on the accompanying consolidated statements of income. The Company wrote-off of $1,712,194 of unamortized loan fees, including accumulated amortization of $1,088,806. Net write-off is included in the loss on extinguishment of debt on the consolidated statements of income.

Seller notes: In connection with the acquisitions of Camfaud and Reilly in November 2016 and July 2017 (see Note 3), respectively, the Company entered into loan agreements with the former owners of Camfaud and Reilly for an aggregate amount of $6,221,000 and $1,941,150, respectively, (collectively, the Seller Notes). The Camfaud Note bears interest at 5 percent per annum and all principal plus accrued interest are due upon the earlier of; (1) 6 months after the UK Revolver is repaid in full, (2) 42 months after the acquisition date (May 2020) or (3) the date on which the Company suffers an insolvency event. The Reilly Note bears interest at 5 percent per annum and all principal plus accrued interest are due three years after the acquisition date (July 2020). The Seller Notes are unsecured.

Note 7. Long Term Debt and Revolving Lines of Credit – (Continued)

The following is a summary of the Company's long term debt as of October 31, 2017 and 2016:

	2017	2016
Senior secured notes	$ 152,553,000	$ 121,360,000
Unsecured note	—	30,000,000
Seller notes	8,626,150	—
	161,179,150	151,360,000
Plus unamortized premium on debt	327,473	—
Less discount on unsecured note	—	(1,748,792)
Less unamortized deferred financing costs	(4,521,793)	(7,357,600)
Total long term debt	$ 156,984,830	$ 142,253,608

Future maturities of long term debt are as follows:

Years ending October 31:	
2018	$ —
2019	—
2020	—
2021	8,626,150
2022	1,266,000
Thereafter	151,287,000
	$ 161,179,150

Note 8. Accrued Payroll and Payroll Expenses

The following table summarizes accrued payroll expenses as of October 31, 2017 and 2016:

	2017	2016
Accrued vacation	$ 3,041,238	$ 2,526,071
Accrued bonus	2,131,945	2,819,616
Other	1,729,483	981
Total accrued payroll and payroll expenses	$ 6,902,666	$ 5,346,668

Note 9. Accrued Expenses and Other Current Liabilities

The following table summarizes accrued expenses and other current liabilities as of October 31, 2017 and 2016:

	2017	2016
Accrued insurance	$ 3,155,685	$ 2,607,205
Accrued interest	2,830,656	2,864,988
Accrued equipment purchases	2,172,115	6,015,009
Accrued sales and use tax	2,695,141	2,066,548
Accrued property taxes	750,264	1,193,176
Other	3,018,261	3,718,240
Total accrued expenses and other liabilities	$ 14,622,122	$ 18,465,166

Note 10. Income Taxes

The sources of income before income taxes for the years ended October 31, 2017 and 2016 are as follows:

	2017	2016
United States	$ 3,813,825	$ 10,687,132
Foreign	856,112	—
Total	$ 4,669,937	$ 10,687,132

The components of the provision for income taxes for the years ended October 31, 2017, 2016 and 2015, are as follows:

	2017	2016	2015
Current tax provision:			
Federal	$ 2,201,279	$ 156,533	$ 1,550,104
Foreign	378,031	—	—
State and local	578,697	542,378	421,771
Total current tax provision	3,158,007	698,911	1,971,875
Deferred tax provision (benefit):			
Federal	993,603	3,586,058	99,554
Foreign	(132,607)	—	—
State and local	(262,345)	168,572	(51,317)
Total deferred tax (benefit) provision	598,651	3,754,630	48,237
Net provision for income taxes	$ 3,756,658	$ 4,453,541	$ 2,020,112

For the years ended October 31, 2017, 2016 and 2015, the income tax provision differs from the expected tax provision computed by applying the U.S. federal statutory rate to income before taxes as a result of the following:

	2017	2016	2015
Provision for income taxes at U.S. statutory rate	$ 1,587,778	$ 3,633,625	$ 1,879,976
State income taxes, net of federal deduction	285,982	469,227	244,502
Foreign rate differential	(139,460)	—	—
Meals and entertainment	270,789	234,353	153,272
Transaction costs	1,582,474	—	20,884
Change in deferred tax rate	(116,954)	83,409	(146,864)
Domestic manufacturing deduction	(254,236)	(189,453)	(186,993)
Stock-based compensation	122,844	36,851	15,504
Nontaxable Interest income net of foreign income inclusions	(378,068)	—	—
Foreign tax credit	(79,791)	—	—
Deferred tax on undistributed foreign earnings	888,576	—	—
Increase in valuation allowance	52,662	—	—
Other	(65,938)	185,529	39,831
Income tax provision	$ 3,756,658	$ 4,453,541	$ 2,020,112

Note 10. Income Taxes – (Continued)

The tax effects of the temporary differences giving rise to the Company's net deferred tax liabilities as of October 31, 2017 and 2016, are summarized as follows:

	2017	2016
Deferred tax assets:		
Accrued insurance reserves	$ 1,000,078	$ 966,398
Accrued sales and use tax	997,091	766,552
Accrued payroll	509,276	424,793
Foreign tax credit carryforward	79,791	—
Net operating loss carryforward	160	161
Other	200,936	177,639
Total deferred tax assets	2,787,332	2,335,543
Valuation allowance	(52,662)	—
Net deferred tax assets	2,734,670	2,335,543
Deferred tax liabilities:		
Intangible assets	(11,879,983)	(9,068,365)
Property and equipment	(39,717,047)	(35,958,085)
Prepaid expenses	(352,976)	(426,712)
Change from cash basis to accrual basis (EP)	—	(146,165)
Unremitted foreign earnings	(888,576)	—
Other	(7,414)	—
Total net deferred tax liabilities	(52,845,996)	(45,599,327)
Net deferred tax liabilities	$ (50,111,326)	$ (43,263,784)

The Company does not have any federal net operating loss carry forwards as of October 31, 2017 and 2016. The Company has state net operating loss carry forwards of approximately $6,000 and $6,000 respectively as of October 31, 2017 and 2016 that begin to expire in 2018.

The Company has foreign tax credit carryforwards of approximately $80,000 and $0 as of October 31, 2017 and 2016, respectively, which begin to expire in 2027.

The Company has provided U.S. deferred taxes on cumulative earnings of all of its non-U.S. affiliates.

In assessing the realizability of deferred tax assets, management considers 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 periods in which those temporary differences become deductible. Management considers the scheduled reversal of deferred tax liabilities, projected future taxable income, carryback opportunities, and tax planning strategies in making the assessment. The Company believes it is more likely than not that it will realize the benefits of these deductible differences, net of the valuation allowance provided. The valuation allowance provided by the Company relates to foreign tax credit carryforwards.

Note 10. Income Taxes – (Continued)

In December 2017, the U.S. Government passed the Tax Cuts and Jobs Act, which, among other things, reduces the corporate tax rate from 35 percent to 21 percent for tax years beginning after December 31, 2017. As a result of the enacted law, the Company will revalue deferred tax assets and liabilities at the enacted rate, and reflect that change in its consolidated financial statements for fiscal year 2018. The rate change will impact both the current year tax expense and the deferred tax expense for fiscal year 2018, as the tax rate for the fiscal year will be a blended rate based on the period before and after December 31, 2017. Additionally, the enacted law makes significant changes in the taxation of foreign subsidiaries of U.S. companies. As a result of these changes, a U.S. company will be required to include in U.S. taxable income the total amount of unremitted foreign earnings of its controlled foreign subsidiaries. This inclusion is effective for a foreign corporation's fiscal year beginning prior to 2018, thus effective for fiscal year 2019 for the Company. Therefore, the Company will need to compute the incremental U.S. tax that would be payable under the enacted law. This will require the Company to prepare an earnings and profits analysis for each of their foreign subsidiaries, and determine the available foreign tax pools, since the incremental tax can be offset by foreign taxes. The Company is still evaluating the impact that the new enacted law will have on its consolidated financial statements.

Note 11. Commitments and Contingencies

Incentive compensation plan: The Company has an Incentive Compensation Plan that has been approved by the Board of Directors. The Plan establishes a cash bonus pool for eligible employees of the Company. The balance available for the cash bonus pool is established by meeting certain performance targets. As of October 31, 2017 and 2016, the Company accrued $2,131,945 and $2,819,616, respectively, of bonuses payable under the Incentive Compensation Plan, which has been included in accrued payroll and payroll expenses in the accompanying consolidated balance sheets.

Self-insurance: BB's automobile, general and workmen's compensation insurance is partially self-insured. As of October 31, 2017, the general liability deductible was $100,000 per claim. Beginning in fiscal years 2010 and 2014, the workmen's compensation and automobile policies, respectively, were fully-insured. As of October 31, 2017 and 2016, management has accrued $2,418,000 and $2,149,000, respectively, for claims incurred but not reported and estimated losses reported, which is included in accrued expenses and other current liabilities in the accompanying consolidated balance sheets.

The Company offers employee health benefits via a partially self-insured medical benefit plan. Participant claims exceeding certain limits are covered by a stop-loss insurance policy. The Company contracts with a third party administrator to process claims, remit benefits, etc. The third party administrator requires the Company to maintain a bank account to facilitate the administration of claims. As of October 31, 2017 and 2016, the account balance was $234,167 and $282,989, respectively, and is included in cash in the accompanying consolidated balance sheets. As of October 31, 2017 and 2016, management has accrued $737,000 and $458,000, respectively, for health claims incurred but not reported based on historical claims amounts and average lag time, which is included in accrued expenses and other current liabilities in the accompanying consolidated balance sheets.

Litigation: The Company is currently involved in certain legal proceedings and other disputes with third parties that have arisen in the ordinary course of business. Management has reviewed these issues to determine if reserves are required for losses that are probable to materialize and reasonable to estimate the amount of loss in accordance with ASC 450, *Contingencies* (ASC 450). Management evaluates such reserves, if any, based upon several criteria, including the merits of each claim, settlement discussions, advice of outside counsel, as well as indemnification of amounts expended by the Company's insurers or others, if any. Management and corporate counsel believe that the outcomes of the legal actions will not have a material impact and do not believe that any amounts need to be recorded for contingent liabilities in the consolidated balance sheets.

Life insurance: BB is the owner and beneficiary of term life insurance policies on the lives of its key employees. As of October 31, 2017, 2016 and 2015, the aggregate face value of the policies was $4,000,000, $10,000,000 and $10,000,000, respectively. The policies do not have a cash surrender value.

Letters of credit: The Revolver provides for up to $5,000,000 of standby letters of credit. As of October 31, 2017, 2016 and 2015, approximately $48,000, $125,000 and $201,000, respectively, had been committed to the Company's general liability insurance provider.

Operating leases: The Company leases facilities, equipment and vehicles under non-cancelable operating leases with various expiration dates through August 2023. Monthly lease payments range from $543 to $8,903. Total rental expense for the years ended October 31, 2017, 2016 and 2015, was $2,807,484, $1,869,973 and $1,426,649, respectively, which also includes the Company's month-to-month leases.

Note 11. Commitments and Contingencies – (Continued)

The following is a summary of future minimum lease payments for the years ended October 31:

Years ending October 31:		
2018	$	1,551,209
2019		887,193
2020		613,405
2021		450,020
2022		345,267
Thereafter		295,051
	$	4,142,145

Capital leases: BB entered into two capital leases for land and buildings in Georgia and South Carolina during fiscal year 2015. The terms of the Georgia and South Carolina leases are 123 and 120 months, respectively, and contain purchase options that may be exercised at any time during the lease. The purchase price payable upon exercise of the purchase options is equal to the fair value of the leased assets less the amount of rent paid to date. The purchase price at the end of the lease is insignificant and, therefore, the leased assets are considered to transfer ownership at the end of the lease.

The land and buildings and related liabilities under the capital leases were recorded at the time of the lease at the lesser of the present value of the future payments due under the leases or the fair value of the leased assets. The amount of land and buildings and capital lease obligation originally recorded under the capital leases was $909,250. The capital lease obligation recorded as of October 31, 2017 and 2016 was $731,829 and $804,531, respectively. The net book value of the leased assets as of October 31, 2017 and 2016 was $851,619 and $873,304.

Camfaud also enters into capital leases for operating equipment. The capital lease obligation recorded as of October 31, 2017, was $113,962. The net book value of the leased assets as of October 31, 2017, was $135,452.

Future payments of capital lease obligations, together with the present value of those future payments are as follows:

Years ending October 31:		
2018	$	201,594
2019		125,593
2020		110,394
2021		112,776
2022		115,229
Thereafter		291,394
Total minimum lease payments		956,980
Less the amount representing interest		(111,189)
Present value of minimum lease payments	$	845,791

Note 12. Stockholders' Equity

Pursuant to the articles of incorporation, the Company was initially authorized to issue 50,000,000 shares of $0.001 par value common stock and 2,423,711 shares of $0.001 par value preferred stock. In March 2016, the Company amended the articles of incorporation to reduce the number of shares of common stock the Company is authorized to issue to 15,000,000 shares.

Note 12. Stockholders' Equity – (Continued)

In connection with the Merger, the Company issued 6,576,289 shares of common stock to the Sponsor for $16,300,000. The Company also issued 1,000,000 shares of common stock to one of the lenders as part of obtaining loan financing. The amount recorded of $2,478,602 was based on an allocation of the loan proceeds based on the relative fair values of the common stock and debt. The amount was recorded as a discount on the debt, which was written off upon the Company's repayment of the unsecured note during 2017 (see Note 6). The proceeds raised from the equity offering have been reduced by offering costs of $158,715. Also in connection with the Merger, the Company issued 2,423,711 shares of preferred stock to certain former owners of BB and EP. The preferred stock was recorded at its fair value, which was determined to be $15,182,053 as of the merger date.

During 2017, the Company purchased 81,447 shares of preferred stock from a stockholder for $1,400,009, and the difference between original cost and the purchase price of $685,645 is included in retained earnings in the accompanying consolidated financial statements.

Redeemable preferred stock: The Company's preferred stock accrues cumulative dividends at 13.5 percent per annum that must be paid before dividends are paid to any other holders of capital stock, but are not payable until declared (Preferred Dividends). Preferred Dividends accrue daily based on the liquidation preference of the underlying shares and compound quarterly. Preferred stock holders are entitled to participating dividends, distributions declared or paid, or set aside for payment on the common stock whether payments consist of cash, securities, property, or other assets. To the extent that dividend or distributions are made in the form of securities, preferred stock holders are only entitled to receive the same class securities provided to the common stock holders.

The preferred stock also includes a liquidation preference of $4.13 per share (Liquidation Preference). Upon liquidation, dissolution or winding up of the Company, before any distributions are made to holders of common stock, holders of preferred stock are entitled to receive an amount equal to the Liquidation Preference plus all accrued but unpaid dividends. On September 8, 2017, upon settlement of the Senior Notes Exchange (Note 7), the Company declared and paid cumulative unpaid accrued dividends of $4,840,065 to the preferred stockholders. As of October 31, 2017, 2016 and 2015 the liquidation preference of preferred stock was $9,845,139, $13,395,383 and $11,734,025, respectively, which includes Preferred Dividends of $322,583, $3,385,457 and $1,724,099, respectively.

On the 66th month anniversary of the original issuance date (February 18, 2020), each holder of preferred stock may redeem their shares of preferred stock to the Company for a price equal to the fair value of the preferred stock on the redemption date. If it is determined that the presence of preferred stock would have a material adverse effect on the success of a qualified public offering, the shares of preferred stock shall be converted into shares of common stock upon the closing of a qualified public offering. This redemption feature is outside the holder's control; however, the preferred shares contain disability conditions that allow for the Company to invoke said disability notice and prevent the payment upon execution of the aforementioned conversion if the Company so deems that the Company is not in a position to allow for the conversion as it would place the Company in a difficult financial position. The carrying value of preferred stock has not been subsequently adjusted to reflect redemption value as the Company does not believe redemption is probable due to the length of time before redemption can occur.

The holders of preferred stock are entitled to vote together with the holders of common stock as a single class on all matters submitted to a vote of the holders of common stock. Each share of preferred stock is entitled to one vote.

The Company applies the accounting standards for distinguishing liabilities from equity when determining the classification and measurement of its preferred stock. Conditionally redeemable preferred shares including preferred shares that feature redemption rights that are either within the control of the holder or subject to redemption upon the occurrence of uncertain events not solely within the Company's control are classified as temporary equity.

Note 12. Stockholders' Equity – (Continued)

The Company has performed an analysis of the redemption features contained within the preferred stock and has determined that embedded features other than the change in control feature identified and evaluated have been determined to be solely within the control of the issuer. ASR 268 requires equity instruments with redemption features that are not solely within the control of the issuer to be classified outside of permanent equity, often referred to as classification in "temporary equity". The Company has presented such amounts outside of temporary equity commensurate with the aforementioned guidance.

During 2017, the Company purchased 81,447 shares of preferred stock from a stockholder for $1,400,009. The difference of $889,825 between the purchase price and original cost is included in retained earnings for the year ended October 31, 2017.

Note 13. Stock-Based Compensation

During 2015, the Company established the 2015 Equity Incentive Plan (as amended, the "2015 Plan"). Under the 2015 Plan, the Company may award stock options, restricted stock or other equity awards to certain employees, directors and consultants of the Company and its affiliates, including Brundage-Bone and Eco-Pan. The 2015 Plan permits the issuance of up to 1,622,120 shares of the Company's common stock. The vesting period and term of each option are determined at the date of grant and generally does not exceed ten years. The options may include time-vesting and/or performance-based vesting criteria. The options may be subject to forfeiture if certain vesting requirements are not met.

As of October 31, 2017, there were 221,536 shares of the Company's common stock available for grant under the 2015 Plan. A summary of option activity for the years ended October 31, 2017 and 2016, is as follows:

	Options	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Life	Aggregate Intrinsic Value
Options outstanding, October 31, 2015	1,622,120	$ 2.48		
Granted	—			
Forfeited	(92,416)	2.48		
Options outstanding, October 31, 2016	1,529,704	$ 2.48	8.27	$ (3,701,883)
Granted	227,280	17.50		
Forfeited	(286,119)	2.74		
Cancelled	(70,281)	2.48		
Options outstanding, October 31, 2017	1,400,584	$ 4.86	7.41	$ (4,927,591)

The options granted to employees during the year ended October 31, 2017, included both time-vesting and performance-based vesting criteria. Of the 227,280 options granted, 54,000 are subject to time- vesting only. The time-vesting criteria specify that 20 percent of the options will vest on each of the first 5 anniversaries of the grant date, subject to the holder's continued service through the vesting date. The remaining 173,280 options granted include both time-vesting and performance-based vesting criteria. For these grants, 50 percent of the options are subject to time-vesting and 50 percent are subject to performance-based vesting. The time-vesting criteria specify that 10 percent of the options shall vest on each of the first 5 anniversaries the grant date, subject to the holder's continued service through the vesting date. The performance criteria stipulate that up to 10 percent of the options shall vest on each of the first 5 anniversaries of the grant date, based on the Company's annual Earnings before income taxes, depreciation and amortization (EBITDA) for the applicable year and provided that the Companies achieve a minimum annual EBITDA amount for that particular year, subject to the holder's continued service through the vesting date.

Note 13. Stock-Based Compensation – (Continued)

The Company repurchased and cancelled 70,281 options during the year ended October 31, 2017, for $686,645. The repurchase price was less than the fair value of the options at the time of the repurchase and accordingly, no incremental compensation cost was recorded.

Compensation expense subject to the performance-based vesting criteria is recognized over the requisite service period only if the performance criteria are probable of being met. The fiscal year 2017 EBITDA target was not met, thus compensation expense was not recorded for the fiscal year 2017 performance vesting tranche with the exception of two individuals for which the Company waived the performance- based vesting criteria. The fiscal years 2016 and 2015 EBITDA targets were achieved by the Company and, therefore, the Company has recognized compensation expense related to those performance tranches. Compensation expense for time-based vesting options is recognized on a straight-line basis over the requisite service period. Total compensation expense recognized by the Company for the years ended October 31, 2017, 2016 and 2015, is $362,345, $109,424 and $46,640, respectively, which has been included in general and administrative expenses on the accompanying consolidated statements of income. As of October 31, 2017, stock-based compensation not yet recognized in income is $1,478,769, which will be recognized over a weighted-average period of 2.5 years. Included in this amount is $578,409 of expense related to the performance-based awards, which will only be recognized if achievement of the performance targets is determined to be probable. The fair value of shares vested for the year ended October 31, 2017 was $393,734.

The following is a summary of options outstanding and exercisable as of October 31, 2017:

	Options Outstanding			Options Exercisable	
Exercise Price	Number of Options	Weighted-Average Remaining Contractual Life	Weighted-Average Exercise Price	Number of Options	Weighted-Average Exercise Price
$ 2.48	1,178,304	5.16	$ 2.48	378,328	$ 2.48
17.50	222,280	8.80	17.50	41,568	17.50
	1,400,584	5.74	$ 4.86	419,896	$ 3.97

The weighted-average grant date fair value of options granted during 2017 was $8.16 per share. The fair value of share-based payments was estimated using the Black-Scholes option pricing model requiring the use of subjective valuation assumptions. The Black-Scholes valuation model requires several inputs, including the expected stock price volatility. Volatility was determined using observations of historical stock prices for five comparable public companies. The Company's options have characteristics significantly different from those of traded options, and changes in input assumptions can materially affect the fair value estimates.

The fair value of options granted during 2017 was estimated using the following assumptions:

Risk-free interest rate	1.61%
Expected dividend yield	None
Expected volatility factor	45.37%
Expected option life (in years)	6.5
Actual forfeitures	None

Note 14. Earnings Per Share

The following is a calculation of the basic and diluted weighted average number of shares outstanding and earnings per share for the fiscal years ended October 31, 2017, 2016 and 2015, respectively:

	2017	2016	2015
Net (Loss) Income (numerator):			
Basic & Diluted:			
Net (loss) income attributable to Concrete Pumping Holdings, Inc. and Subsidiaries	$ 913,279	$ 6,269,955	3,554,665
Less: Preferred stock - cumulative dividends	(1,811,837)	(1,695,122)	(1,477,866)
Less: Undistributed earnings allocated to preferred shares	-	(1,108,807)	(503,356)
Net (loss) income available to common shareholders	$ (898,558)	$ 3,466,026	$ 1,573,443
Weighted average shares (denominator):			
Weighted average shares - basic	7,576,289	7,576,289	7,576,289
Dilutive effect of stock options	-	703,032	38,171
Weighted average shares - diluted	7,576,289	8,279,321	7,614,460
Antidilutive stock options	770,171	-	-
Basic (loss) income per share	$ (0.12)	$ 0.46	$ 0.21
Diluted (loss) income per share	$ (0.12)	$ 0.42	$ 0.21

Note 15. Employee Benefits Plan

Retirement plans: The Company offers a 401(k) plan, which covers substantially all employees of BB and EP, with the exception of certain union employees. Participating employees may elect to contribute, on a tax-deferred basis, a portion of their compensation, in accordance with Section 401(k) of the Internal Revenue Code. For the years ended October 31, 2017 and 2016, the Company's matching contribution rate for non-collectively bargained employees was 25 percent of the first 4 percent and 50 percent of the first 7 percent of an employee's gross earnings for BB and EP participants, respectively. The Company's matching contribution may be changed at the discretion of the Board of Directors. Matching contributions vest 20 percent after 2 years of service and ratably thereafter until they are 100 percent vested after 6 years of service. During the years ended October 31, 2017 and 2016, certain union employees have collectively bargained for a matching contribution of 50 percent to 100 percent of the first 7 percent of base compensation that a participant contributed, and additional amounts may be contributed at the option of the Board of Directors. During the years ended October 31, 2017 and 2016, certain other union employees have collectively bargained for a defined contribution of $4.50 and $4.25 per hour worked, respectively. Retirement plan contributions for the years ended October 31, 2017 and 2016, were $442,262 and $445,162, respectively.

Camfaud operates a Small Self-Administered Scheme (SSAS), which is the equivalent of a U.S. defined contribution pension plan. The assets of the plan are held separately from those of Camfaud in an independently administered fund. Contributions by Camfaud to the SSAS amounted to $179,562 for the year ended October 31, 2017.

Multiemployer plans: BB contributes to a number of multiemployer defined benefit pension plans under the terms of collective-bargaining agreements (CBAs) that cover its union-represented employees. The risks of participating in these multiemployer plans are different from single-employer plans in the following aspects: (a) Assets contributed to the multiemployer plan by one employer may be used to provide benefits to employees of other participating employers; (b) If a participating employer stops contributing to the plan, the unfunded obligations of the plan may be borne by the remaining participating employers; and (c) If BB chooses to stop participating in some of its multiemployer plans, BB may be required to pay those plans an amount based on the underfunded status of the plan, referred to as a withdrawal liability. BB has no intention of stopping its participation in any multiemployer plan.

The following is a summary of our contributions to each multiemployer pension plan for the years ended October 31, 2017, 2016 and 2015:

	2017	2016	2015
California	$ 564,047	$ 603,516	$ 524,058
Oregon	207,735	196,825	161,976
Washington	145,517	124,595	94,639
Total contributions	$ 917,299	$ 924,936	$ 780,673

No plan was determined to be individually significant. There have been no significant changes that affect the comparability of the contributions. The Company reviews the funded status of each multiemployer defined benefit pension plan at each reporting period so as to monitor the certified zone status for each of the multiemployer defined benefit pension plans. The zone status for the multiemployer defined benefit pension plans for Oregon and Washington was Green (greater than 80% funded) and Yellow (less than 80% funded but greater than 65% funded) for the California multiemployer defined benefit pension plans. The funding status for the Oregon and Washington multiemployer defined benefit pension plans is at January 1, 2017 and January 1, 2016 for the California multiemployer defined benefit pension plan.

Note 15. Employee Benefits Plan – (Continued)

Government regulations impose certain requirements relative to multiemployer plans. In the event of plan termination or employer withdrawal, an employer may be liable for a portion of the plan's unfunded vested benefits. BB has not received information from the plans' administrators to determine its share of unfunded vested benefits. BB does not anticipate withdrawal from the plans, nor is BB aware of any expected plan terminations.

The Company believes that the "construction industry" multiemployer plan exception may apply if the Company did withdraw from any of its current multiemployer plans. The "construction industry" exception generally delays the imposition of withdrawal liability in connection with an employer's withdrawal from a "construction industry" multiemployer plan unless and until that employer resumes covered operations in the relevant geographic region without a corresponding resumption of contributions to the multiemployer plan. The Company has no intention of withdrawing, in either a complete or partial withdrawal, from any of the multiemployer plans to which the Company currently contributes; however, it has been assessed a withdrawal liability in the past.

Note 16. Segment Reporting

The Company conducts its business through the following reportable segments based on geography and the nature of services sold: U.S Concrete pumping — Brundage-Bone, U.K. Concrete Pumping — Camfaud, Concrete Waste Management Services — Eco-Pan. The classifications are defined as follows:

- U.S. Concrete Pumping — Brundage-Bone (Brundage-Bone) — consists of concrete pumping services sold to customers in the U.S.
- U.K. Concrete Pumping — Camfaud (Camfaud) — consists of concrete pumping services sold to customers in the U.K which represents foreign operations.
- Concrete Waste Management Services — Eco-Pan (Eco-Pan) — consists of pans and containers rented to customers in the U.S and the disposal of the concrete waste material services sold to customers in the U.S.

The accounting policies of the reportable segments are the same as those described in Note 2. The Chief Operating Decision Maker (CODM) evaluates the performance of its segments based on revenue, and measures segment performance based upon segment EBITDA (earnings before income, taxes, depreciation and amortization).

Non-allocated interest expense and various other administrative costs are reflected in Corporate. Corporate assets include cash, prepaid expenses and other current assets, property and equipment.

The following provides operating information about the Company's reportable segments for the years ended October 31, 2017, 2016 and 2015:

	2017	2016	2015
Revenue			
Brundage-Bone	$ 151,194,931	$ 153,488,134	$ 131,975,731
Camfaud	36,433,763	—	—
Eco-Pan	23,581,905	18,937,413	15,384,970
	$ 211,210,599	$ 172,425,547	$ 147,360,701

Note 16. Segment Reporting – (Continued)

	2017	2016	2015
EBITDA			
Brundage-Bone	$ 36,925,969	$ 43,763,760	$ 38,632,658
Camfaud	10,827,292	—	—
Eco-Pan	9,912,446	7,560,512	6,560,508
Corporate	(3,093,897)	1,188,480	1,431,283
	$ 54,571,810	$ 52,512,752	$ 46,624,449
Interest income (expense)			
Brundage-Bone	$ (15,389,779)	$ (15,156,744)	$ (16,039,151)
Camfaud	(3,634,811)	—	—
Eco-Pan	870	—	(117,000)
Corporate	(3,724,128)	(4,359,333)	(4,335,503)
	$ (22,747,848)	$ (19,516,077)	$ (20,491,654)
Depreciation and amortization			
Brundage-Bone	$ 18,275,871	$ 19,420,137	$ 17,959,583
Camfaud	6,336,369	—	—
Eco-Pan	2,315,298	2,675,954	2,440,737
Corporate	226,487	213,452	203,133
	$ 27,154,025	$ 22,309,543	$ 20,603,453
Income tax (benefit) expense			
Brundage-Bone	$ 3,109,635	$ 4,603,472	$ 1,665,133
Camfaud	245,424	—	—
Eco-Pan	2,791,138	703,733	1,400,716
Corporate	(2,389,539)	(853,664)	(1,045,737)
	$ 3,756,658	$ 4,453,541	$ 2,020,112
Transaction costs			
Brundage-Bone	$ 4,489,517	$ 3,691,466	$ 1,245,041
Eco-Pan	—	—	8,488
	$ 4,489,517	$ 3,691,466	$ 1,253,529
Net income (loss)			
Brundage-Bone	$ 150,684	$ 4,583,407	$ 2,968,791
Camfaud	610,688	—	—
Eco-Pan	4,806,880	4,180,825	2,602,055
Corporate	(4,654,973)	(2,530,641)	(2,061,616)
	$ 913,279	$ 6,233,591	$ 3,509,230

Note 16. Segment Reporting – (Continued)

Total assets by segment for the as of October 31, 2017 and 2016 are as follows:

	2017	2016
Total Assets		
Brundage-Bone	$ 244,553,325	$ 209,074,489
Camfaud	44,866,267	—
Eco-Pan	28,961,354	26,738,362
Corporate	20,465,681	19,116,618
	$ 338,846,627	$ 254,929,469

The U.S. and U.K. were the only regions that accounted for more than 10% of the Company's revenues in 2017, 2016 and 2015. There was no single customer that accounted for more than 10% of revenues in 2017, 2016 and 2015. Intersegment revenues between Brundage-Bone and Eco-Pan were immaterial for the twelve month periods ended October 31, 2017, 2016 and 2015, respectively. Revenues for 2017, 2016 and 2015 and long-lived assets as of October 31, 2017 and 2016 were as follows:

	2017	2016	2015
Revenues			
U.S.	$ 174,776,836	$ 172,425,547	$ 147,360,701
U.K.	36,433,763	—	—
	$ 211,210,599	$ 172,425,547	$ 147,360,701

	2017	2016
Long Lived Assets		
U.S.	$ 138,012,093	$ 138,686,332
U.K.	37,530,042	—
	$ 175,542,135	$ 138,686,332

Note 17. Related Party Transaction

The Company entered into a Management Services Agreement with PGP Advisors, LLC (PGP), an affiliate of the Sponsor, on August 18, 2014, to provide advisory, consulting and other professional services. The annual fee for these services is $1,250,000, which is payable quarterly. The annual service fee was increased to $4,000,000 for the next two years and $2,000,000 annually thereafter. For the years ended October 31, 2017, 2016 and 2015, the Company incurred $1,749,792, $1,535,705 and $1,599,767, respectively, related to this agreement and other agreed upon expenses, which is included in general and administrative expenses on the accompanying consolidated statements of income. The Company has long term debt obligations which are held in whole or in part by related parties (Note 7).

In connection with the acquisition of Camfaud (Note 3), the Company paid $1,500,000 in transaction costs to PGP that is included in transaction costs on the consolidated statements of income.

Note 18. Subsequent Events

The Company has evaluated subsequent events through September 10, 2018, the date for which the consolidated financial statements were available for issuance, that other than the matters described below, the Company has not identified any significant events for which it needs to provide disclosure. In April 2018, the Company entered into an asset and purchase agreement to acquire substantially all assets of Richard O'Brien Companies, Inc., O'Brien Concrete Pumping-Arizona, Inc., O'Brien Concrete Pumping-Colorado, Inc. and O'Brien Concrete Pumping, LLC (collectively, the O'Brien Companies) for $21,000,000 paid with cash. The Company entered into a Merger Agreement signed between the Company and Industrea Acquisition Corporation effective September 7, 2018 as disclosed in the Form 8- K put forth by Industrea Acquisition Corporation dated similarly. Therein it is disclosed that the Company had entered into a Merger Agreement that sets forth that a Business Combination involving the Company will occur whereby the Company will be acquired by Industrea Acquisition Corporation.

Exhibit 99.4

CONCRETE PUMPING HOLDINGS, INC. AND SUBSIDIARIES

UNAUDITED CONDENSED CONSOLIDATED BALANCE SHEETS
July 31, 2018 and October 31, 2017

	2018	2017
Assets		
Current assets:		
Cash	**$ 7,408,738**	$ 6,925,042
Trade receivables, net	**38,726,639**	33,101,052
Inventory	**3,924,499**	3,009,651
Prepaid expenses and other current assets	**4,893,586**	3,668,835
Total current assets	**54,953,462**	46,704,580
Property, plant and equipment, net	**197,904,951**	175,542,135
Intangible assets, net	**38,680,071**	42,034,188
Goodwill	**75,549,172**	73,509,208
Deferred financing costs, net	**720,821**	1,056,516
Total assets	**$ 367,808,477**	$ 338,846,627
Liabilities and Stockholders' Equity		
Current liabilities:		
Revolving loans	**$ 60,694,855**	$ 65,888,871
Current portion of capital lease obligations	**134,504**	193,039
Accounts payable	**5,071,092**	7,116,901
Accrued payroll and payroll expenses	**6,912,481**	6,902,666
Accrued expenses and other current liabilities	**17,925,437**	14,622,122
Income taxes payable	**2,462,663**	1,577,923
Total current liabilities	**93,201,032**	96,301,522
Long term debt, net of discount for deferred financing costs	**173,422,613**	156,984,830
Deferred consideration	**1,667,891**	968,783
Capital lease obligations, less current portion	**589,426**	652,752
Deferred income taxes	**38,341,728**	50,111,326
Total liabilities	**307,222,690**	305,019,213
Commitments and contingencies (Note 11)		
Redeemable preferred stock, $0.001 par value, 2,342,264, shares authorized, issued and outstanding as of July 31, 2018 and October 31, 2017 (liquidation preference of $10,873,090 and $9,845,139, respectively)	**14,671,869**	14,671,869
Common Stock, $0.001 par value, 15,000,000 shares authorized, 7,576,289 shares issued and outstanding	**7,576**	7,576
Additional paid-in capital	**18,724,707**	18,444,075
Accumulated other comprehensive income	**1,865,610**	2,381,190
Retained earnings (accumulated deficit)	**25,316,025**	(1,677,296)
Total stockholders' equity	**45,913,918**	19,155,545
Total liabilities and stockholders' equity	**$ 367,808,477**	$ 338,846,627

See notes to condensed consolidated financial statements.

CONCRETE PUMPING HOLDINGS, INC. AND SUBSIDIARIES

UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
For the Nine Months Ended July 31, 2018 and 2017

	2018	2017
Revenue	$ 175,854,156	$ 151,641,656
Cost of operations	98,430,292	88,192,906
Gross profit	**77,423,864**	**63,448,750**
General and administrative expenses	42,886,723	39,453,241
Transaction costs	2,520,013	3,977,589
Income from operations	**32,017,128**	**20,017,920**
Other income (expense):		
Interest expense	(15,689,827)	(17,045,741)
Loss on extinguishment of debt	-	(491,972)
Other income, net	33,610	90,597
Other expense, net	(15,656,217)	(17,447,116)
Income before income taxes	**16,360,911**	**2,570,804**
Income (benefit) tax provision	(10,632,410)	2,801,805
Net income (loss)	**26,993,321**	**(231,001)**
Net income (loss) attributable to Concrete Pumping Holdings, Inc. and Subsidiaries	**$ 26,993,321**	**$ (231,001)**
Less: Preferred shares dividends	(1,050,005)	(1,411,891)
Less: Undistributed earnings allocated to preferred shares	(6,126,508)	-
Net income (loss) available to common shareholders	**$ 19,816,808**	**$ (1,642,892)**
Weighted average common shares outstanding		
Basic	7,576,289	7,576,289
Diluted	8,510,779	7,576,289
Net income (loss) per common share		
Basic	**$ 2.62**	**$ (0.22)**
Diluted	**$ 2.33**	**$ (0.22)**

See notes to condensed consolidated financial statements.

CONCRETE PUMPING HOLDINGS, INC. AND SUBSIDIARIES

UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
For the Nine Months Ended July 31, 2018 and 2017

	2018	2017
Net income (loss)	**$ 26,993,321**	$ (231,001)
Other comprehensive income:		
Foreign currency translation adjustment	**(515,580)**	2,355,964
Total comprehensive income	**$ 26,477,741**	$ 2,124,963

See notes to condensed consolidated financial statements.

CONCRETE PUMPING HOLDINGS, INC. AND SUBSIDIARIES

(UNAUDITED) CONDENSED CONSOLIDATED STATEMENTS OF CHANGES IN THE STOCKHOLDERS' EQUITY
For the Nine Months Ended July 31, 2018 and the year ended October 31, 2017

	Common Stock	Additional Paid-In Capital	Accumulated Other Comprehensive Income	Retained Earnings (Accumulated Deficit)	Stockholders' Equity
Balance, October 31, 2016	$ 7,576	$ 18,768,375	$ —	$ 3,139,315	$ 21,915,266
Stock-based compensation	—	362,345	—	—	362,345
Repurchase of stock options	—	(686,645)	—	—	(686,645)
Purchased for retirement, not re-issuable	—	—	—	(889,825)	(889,825)
Preferred stock dividend	—	—	—	(4,840,065)	(4,840,065)
Net income	—	—	—	913,279	913,279
Foreign currency translation adjustment	—	—	2,381,190	—	2,381,190
Balance, October 31, 2017	$ 7,576	$ 18,444,075	$ 2,381,190	$ (1,677,296)	$ 19,155,545
Stock-based compensation	—	280,632	—	—	280,632
Net income	—	—	—	26,993,321	26,993,321
Foreign currency translation adjustment	—	—	(515,580)	—	(515,580)
Balance, July 31, 2018	$ 7,576	$ 18,724,707	$ 1,865,610	$ 25,316,025	$ 45,913,918

See notes to condensed consolidated financial statements.

CONCRETE PUMPING HOLDINGS, INC. AND SUBSIDIARIES

UNAUDITED CONDENSED CONSOLIDATED STATEMENT OF CASH FLOWS
For the Nine Months Ended July 31, 2018 and 2017

	2018	2017
Cash flows from operating activities:		
Net income (loss)	**$ 26,993,321**	$ (231,001)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:		
Depreciation	**12,955,480**	15,022,628
Deferred income taxes	**(11,722,078)**	(1,162,953)
Amortization of deferred financing costs	**1,233,370**	980,887
Amortization of debt premium	**32,558**	750,575
Amortization of intangible assets	**5,719,889**	5,633,877
Stock-based compensation	**280,632**	258,112
Loss on debt extinguishment	**—**	258,420
Gain on the sale of property, plant and equipment	**(2,264,132)**	(425,074)
Changes in fair value of contingent consideration	**733,482**	—
Changes in operating assets and liabilites, net of business acquired:		
Trade receivables, net	**(5,750,696)**	1,496,400
Inventory	**(844,682)**	(338,433)
Prepaid expenses and other current assets	**(2,074,693)**	(252,421)
Income taxes receivable/payable, net	**863,154**	1,771,763
Accounts payable	**(2,041,363)**	3,670,436
Accrued payroll, accrued expenses and other current liabilities	**6,739,266**	(9,378,238)
Net cash provided by operating activities	**30,853,508**	18,054,978
Cash flows from investing activities:		
Purchase of property, plant and equipment	**(21,106,229)**	(9,270,246)
Proceeds from sale of property, plant and equipment	**1,910,012**	795,380
Business acquired	**(21,000,000)**	(60,382,441)
Net cash (used in) investing activities	**(40,196,217)**	(68,857,307)
Cash flows from financing activities:		
Premium proceeds on long term debt	**600,000**	—
Principal proceeds on long term debt	**15,000,000**	40,400,000
Principal payments of long term debt	**—**	(6,124,550)
Proceeds on revolving loan, net	**129,951,314**	29,031,406
Payments on revolving loan, net	**(135,086,321)**	(7,830,180)
Payments on capital lease obligations	**(122,801)**	(54,096)
Net cash provided by financing activities	**10,342,192**	55,422,580
Effect of foreign currency	**(515,788)**	(1,433,140)
Net increase in cash	**$ 483,695**	$ 3,187,111
Cash:		
Beginning of period	**$ 6,925,043**	$ 3,248,520
End of period	**$ 7,408,738**	$ 6,435,631
Supplemental disclosure of non cash investing and financing activity		
Equipment purchases included in accrued expenses	**$ 151,541**	$ 860,000
Cash paid for interest	**$ 12,745,146**	$ 10,845,375
Cash paid for income taxes	**$ 119,687**	$ 3,882,303

See notes to condensed consolidated financial statements.

CONCRETE PUMPING HOLDINGS, INC. AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

Note 1. Organization and Description of Business

Concrete Pumping Holdings, Inc. (CPH, the Company or Parent) was incorporated in the state of Delaware on June 16, 2014. Concrete Pumping Intermediate Holdings, LLC (CPIH) was formed on June 16, 2014, as a Delaware limited liability company to acquire, through the creation of BB Merger Sub, Inc. (BBMI) and EP Merger Sub, Inc. (EPMI), all outstanding stock of Brundage-Bone Concrete Pumping, Inc. (BBCPI or Brundage-Bone) and Eco-Pan, Inc. (EP or Eco-Pan) on August 18, 2014 (the Merger). BBMI and EPMI were formed on July 23, 2014, as Colorado corporations and wholly-owned subsidiaries of CPIH to merge with and into Brundage-Bone and Eco-Pan, respectively, with Brundage-Bone and Eco-Pan, respectively, being the surviving corporations. Concrete Pumping Property Holdings, LLC (PropCo), a wholly-owned subsidiary of CPH, was incorporated in the state of Delaware on July 14, 2014, to hold certain real property that is leased to Brundage-Bone. CPH, CPIH, BBMI and EPMI commenced operations on August 18, 2014. The equity sponsor of the Parent is Peninsula Pacific Strategic Partners, LLC (the Sponsor).

Brundage-Bone was incorporated in the state of Colorado on October 31, 2011. Brundage-Bone and its subsidiaries provide concrete pumping services in the United States. Brundage-Bone's core business is the rental of concrete pumping equipment to general contractors and concrete finishing companies. Eco-Pan was incorporated in the state of Colorado on April 4, 2003. Eco-Pan provides industrial cleanup and containment services, primarily to customers in the construction industry.

In November 2016, Brundage-Bone entered into two share purchase agreements to acquire two concrete pumping companies based in the United Kingdom (UK) (collectively, Camfaud): Camfaud Concrete Pumps Limited and Premier Concrete Pumping Limited, which each also owned 50 percent of the stock of South Coast Concrete Pumping Limited. In connection with the transactions, a new entity, Oxford Pumping Holdings Ltd. (Oxford), was created as a wholly-owned subsidiary of Brundage-Bone to serve as a UK-based holding company. In July 2017, Camfaud acquired Reilly Concrete Pumping Limited (Reilly), another UK-based concrete pumping company. As a result of these transactions, the UK based Companies collectively make up Camfaud. Refer to Note 3 for discussion of the acquisitions.

The Company prepared the condensed consolidated financial statements included herein, without audit, pursuant to the rules and regulations of the United States Securities and Exchange Commission (SEC). The information furnished in the condensed consolidated financial statements includes normal recurring adjustments and reflects all adjustments, which are, in the opinion of management, necessary for a fair presentation of the results of operations and statements of financial position for the interim periods presented. Certain information and footnote disclosures normally included in the consolidated financial statements prepared in accordance with accounting principles generally accepted in the United States of America (U.S. GAAP) have been condensed or omitted pursuant to such rules and regulations. We believe the disclosures are adequate to make the information presented not misleading when read in conjunction with our fiscal 2017 consolidated financial statements and the notes thereto.

Note 2. Summary of Significant Accounting Policies

Basis of presentation: The Company follows accounting standards established by the Financial Accounting Standards Board (FASB) to ensure consistent reporting of financial condition, results of operations, and cash flows. References to generally accepted accounting principles (U.S. GAAP) in these footnotes are to the *FASB Accounting Standards Codification* (ASC or the Codification).

Principles of consolidation: These financial statements present the consolidated financial position of CPH and its wholly-owned subsidiaries, Brundage-Bone, Eco-Pan, CPIH, PropCo and Camfaud (collectively, the Company) as of July 31, 2018 and October 31, 2017, and the results of operations, statement of stockholders equity and cash flows for the nine months ended July 31, 2018 and 2017. All significant intercompany accounts and transactions have been eliminated in consolidation.

Note 2. Summary of Significant Accounting Policies – (Continued)

Use of estimates: The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amount 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 period. Actual results could differ from those estimates. Significant estimates include accrued sales and use taxes, the liability for incurred but unreported claims under various partially self-insured polices, allowance for doubtful accounts, goodwill impairment analysis, valuation of share based compensation and accounting for business combinations. Actual results may differ from those estimates, and such differences may be material to the Company's consolidated financial statements.

Cash: Cash includes time deposits and certificates of deposit with original maturities of three months or less.

Trade receivables: Trade receivables are carried at the original invoice amount less an estimate made for doubtful receivables based on a review of all outstanding amounts. Generally, the Company does not require collateral for their accounts receivable; however, the Company may file statutory liens or take other appropriate legal action when necessary on construction projects when problems arise. A trade receivable is considered to be past due if any portion of the receivable balance is outstanding for more than 30 days. The Company does not charge interest on past due trade receivables.

Management determines the allowance for doubtful accounts by identifying troubled accounts and by using historical experience applied to an aging of accounts. The allowance for doubtful accounts was $607,197 and $601,760 as of July 31, 2018 and October 31, 2017, respectively. Trade receivables are written off when deemed uncollectible. Recoveries of trade receivables previously written off are recorded when received.

Inventory: Inventory consists primarily of replacement parts for concrete pumping equipment. Inventories are stated at the lower of cost (first-in, first-out method) or market. The Company evaluates inventory and records an allowance for obsolete and slow-moving inventory to account for cost adjustments to market. Based on management's analysis, no allowance for obsolete and slow-moving inventory was required as of July 31, 2018 and October 31, 2017.

Fair Value Measurements: The FASB's standard on fair value measurements establishes a fair value hierarchy that requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. A financial instrument's categorization within the fair value hierarchy is based upon the lowest level of input that is significant to the fair value measurement.

This standard establishes three levels of inputs that may be used to measure fair value:

Level 1 — Quoted prices in active markets for identical assets or liabilities.

Level 2 — Observable inputs other than Level 1 prices such as quoted prices for similar assets or liabilities.

Level 3 — Unobservable inputs to the valuation methodology that are significant to the measurement of fair value of assets or liabilities.

Deferred financing costs: The Company incurred closing costs of $12,887,000 during the Merger related to obtaining loan financing. In conjunction with the Senior Note Exchange (Note 7) that occurred in September 2017, Brundage-Bone incurred $585,634 related to obtaining financing through additional term notes and $240,250 related to the US Revolver. In connection with the Company's acquisition of Camfaud, costs of $625,480 were incurred by Camfaud related to the UK Revolver. Deferred financing costs related to the revolver are classified as assets and amortized on a straight-line basis over the term of the revolver, while deferred financing costs related to the term debt are shown as a direct deduction from the carrying amount of the liability and amortized over the terms of the related debt instruments under the effective interest method. Accumulated amortization related to the US Revolver fees as of July 31, 2018 and October 31, 2017, was $1,049,429 and $678,528, respectively. Accumulated amortization related to the UK Revolver fees as of July 31, 2018 and October 31, 2017, was $271,324 and $210,699, respectively. See Note 7 for discussion of the term debt financing fees.

Note 2. Summary of Significant Accounting Policies – (Continued)

Goodwill: The Company accounts for goodwill under ASC 350, Intangibles — Goodwill and Other. The Company's goodwill was recorded as a result of the Company's business combinations. The Company has recorded these business combinations using the acquisition method of accounting. The Company tests its recorded goodwill for impairment on an annual basis on August 31, or more often if qualitative or quantitative indicators of potential exist, using either a qualitative or quantitative assessment. If a qualitative assessment indicates it is more likely than not that goodwill is impaired, a quantitative assessment is performed by determining if the carrying value of each reporting unit exceeds its estimated fair value. Factors that could trigger an interim impairment test include, but are not limited to, underperformance relative to historical or projected future operating results, significant changes in the manner of use of the acquired assets or the Company's overall business, or significant negative industry or economic trends. Management has determined that the Company has 4 reporting units for the purposes of testing goodwill for impairment.

The Company determined that no impairment of goodwill existed as of the last testing date and there were no indicators that would require the management to reassess the impairment analysis of goodwill as of July 31, 2018. Future impairment reviews may require write-downs in the Company's goodwill and could have a material adverse impact on the Company's operating results for the periods in which such write-downs occur.

Long-lived assets: ASC 360 requires other long-lived assets to be evaluated for impairment when indicators of impairment are present. If indicators are present, assets are grouped to the lowest level for which identifiable cash flows are largely independent of other asset groups and cash flows are estimated for each asset group over the remaining estimated life of each asset group. If the undiscounted cash flows estimated to be generated by those assets are less than the asset's carrying amount, impairment is recognized in the amount of excess of the carrying value over the fair value. No indicators of impairment were identified as of July 31, 2018. Intangible assets with finite lives are being amortized on a straight-line basis, except for customer relationships, over their estimated useful lives. The customer relationships are being amortized on an accelerated basis over their estimated useful lives.

Property, plant and equipment: Property, plant and equipment are recorded at cost. Expenditures for additions and betterments are capitalized. Expenditures for maintenance and repairs are charged to expense as incurred; however, maintenance and repairs that improve or extend the life of existing assets are capitalized. The carrying amount of assets disposed of and the related accumulated depreciation are eliminated from the accounts in the year of disposal. Gains or losses from property and equipment disposals are recognized in the year of disposal. Property, plant and equipment is depreciated using the straight line method over the following estimated useful lives:

Buildings and improvements	15 to 40 years
Capital lease assets – buildings	40 years
Furniture and office equipment	2 to 7 years
Machinery and equipment	3 to 25 years
Transportation equipment	3 to 7 years

Capital lease assets are being depreciated over the estimated useful life of the asset (see Note 11). Capital lease amortization is included in total depreciation expense for the nine months ended July 31, 2018 and 2017, respectively.

Note 2. Summary of Significant Accounting Policies – (Continued)

Revenue recognition: The Company generates revenues primarily from concrete pumping services in both the United States and the United Kingdom. Additionally, revenues are generated from the Company's waste management business which consists of service fees charged to customers for the delivery of our pans and containers and the disposal of the concrete waste material.

The Company recognizes revenue from these businesses when all of the following criteria are met: (a) persuasive evidence of an arrangement exists, (b) the service has been performed or delivery has occurred, (c) the price is fixed or determinable, and (d) collectability is reasonably assured. The Company's delivery terms for replacement part sales are FOB shipping point.

The Company imposes and collects sales taxes concurrent with our revenue-producing transactions with customers and remit those taxes to the various governmental authorities as prescribed by the taxing jurisdictions in which we operate. We present such taxes in our consolidated statements of income on a net basis.

Stock-based compensation: The Company follows ASC 718, Compensation — Stock Compensation (ASC 718), which requires the measurement and recognition of compensation expense, based on estimated fair values, for all share-based awards made to employees and directors. The value of the vested portion of the award is recognized as expense in the Company's consolidated statements of income over the requisite service periods. Compensation expense for all share-based awards is recognized using the straight-line method. The Company accounts for forfeitures as they occur in accordance with the early adoption of Accounting Standards Update (ASU) No. 2016-09, *Compensation — Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting.*

Earnings per share: The Company calculates earnings per share in accordance with ASC 260, *Earnings per Share*. The two-class method of computing earnings per share is required for entities that have participating securities. The two-class method is an earnings allocation formula that determines earnings per share for participating securities according to dividends declared (or accumulated) and participation rights in undistributed earnings. The Company has two classes of stock: (1) Common Stock and (2) Participating Preferred Stock ("Preferred Stock").

Basic earnings (loss) per common share is calculated by dividing net income (loss) attributable to common shareholders by the weighted average number of shares of Common Stock outstanding each period. Diluted earnings (loss) per common share is based on the weighted average number of shares outstanding during the period plus the common stock equivalents which would arise from the exercise of stock options outstanding using the treasury stock method and the average market price per share during the period. Common stock equivalents are not included in the diluted earnings (loss) per share calculation when their effect is antidilutive. An anti-dilutive impact is an increase in earnings per share or a reduction in net loss per share resulting from the conversion, exercise, or contingent issuance of certain securities.

Foreign currency translation: The functional currency of Camfaud is the Pound Sterling (GBP). The assets and liabilities of the foreign subsidiaries are translated into US dollars using the year end exchange rates, and the consolidated statements of income are translated at the average rate for the year. The resulting translation adjustments are recorded as a component of comprehensive income on the consolidated statements of comprehensive income and accumulated in other comprehensive income. The functional currency of our other subsidiaries is the US Dollar.

Income taxes: The Company complies with ASC Topic 740, Income Taxes, which requires a liability approach to financial reporting for income taxes. The Company computes deferred income tax assets and liabilities annually for differences between the financial statements and tax basis of assets and liabilities that will result in taxable or deductible amounts in the future based on enacted tax laws and rates applicable to the periods in which the differences are expected to affect taxable income. Valuation allowances are established when necessary to reduce deferred tax assets to the amount expected to be realized. Income tax expense includes both the current income taxes payable or refundable and the change during the period in the deferred tax assets and liabilities.

The tax benefit from an uncertain tax position is only recognized in the consolidated balance sheets if the tax position is more likely than not to be sustained upon an examination. CPIH and PropCo are no longer subject to US federal, state and local income tax examinations by tax authorities for years before 2014. Interest and penalties related to income taxes are included in the income tax provision, if any.

Camfaud files income tax returns in the UK. Camfaud's national statutes are generally open for one year following the statutory filing period.

Business combinations: The Company applies the principles provided in ASC 805, Business Combinations, when a business is acquired. Tangible and intangible assets acquired and liabilities assumed are recorded at fair value and goodwill is recognized for any differences between the price of the acquisition and the fair value determination. The Company estimates all purchase costs and other related transactions on the acquisition date. Transaction costs for the acquisitions are expensed as incurred in accordance with ASC 805.

Note 2. Summary of Significant Accounting Policies – (Continued)

Seasonality: The Company's sales are historically seasonal, with lower revenue in the first quarter and higher revenue in the fourth quarter of each year. Such seasonality also causes the Company's working capital cash flow requirements to vary from quarter to quarter primarily depending on the variability of weather patterns with the Company generally having lower sales volume during the winter and spring months.

Vendor concentration: As of July 31, 2018 and 2017 there were three significant vendors that the Company relies upon to purchase concrete pumping boom equipment. These vendors provided sales of concrete pumping boom equipment that can be replaced with alternate vendors should the need arise.

Concentration of credit risk: Cash balances held at financial institutions may, at times, be in excess of federally insured limits. It is management's belief that the Company places their temporary cash balances in high-credit quality financial institutions.

The Company's customer base is dispersed across the United States and United Kingdom. The Company performs ongoing evaluations of their customers' financial condition and requires no collateral to support credit sales. During the nine months ended July 31, 2018 and 2017, no customer represented 10 percent or more of sales or trade receivables.

Recently issued accounting pronouncements not yet effective: In January 2017, the FASB issued ASU No. 2017-01, Business Combinations (Topic 805): Clarifying the Definition of a Business, which provides guidance to assist entities with evaluating whether transactions should be accounted for as acquisitions (or disposals) of assets or businesses. ASU 2017-01 requires entities to use a screen test to determine when an integrated set of assets and activities is not a business or if the integrated set of assets and activities needs to be further evaluated against the framework. ASU 2017-01 will be effective for the Company beginning on November 1, 2019. The Company is currently evaluating the impact of the pending adoption of the new standard on the consolidated financial statements. on the consolidated financial statements.

In February 2016, the FASB issued ASU No. 2016-02, Leases (Topic 842). The guidance in this ASU supersedes the leasing guidance in Topic 840, Leases. Under the new guidance, lessees are required to recognize lease assets and lease liabilities on the balance sheet for all leases with terms longer than 12 months. Leases will be classified as either finance or operating, with classification affecting the pattern of expense recognition in the income statement. The new standard is effective for fiscal years beginning after December 15, 2019, and interim periods after December 15, 2020. Initially the modified retrospective transition approach is required for lessees for capital and operating leases existing at, or entered into after, the beginning of the earliest comparative period presented in the financial statements, with certain practical expedients available.

In July 2018, the FASB issued ASU No. 2018-11, Leases Topic 842: Targeted Improvements, wherein the Board decided to provide another transition method in addition to the existing transition method by allowing entities to initially apply the new leases standard at the adoption date (such as January 1, 2019, for calendar year-end public business entities, and January 1, 2020 for the Company) and recognize a cumulative-effect adjustment to the opening balance of retained earnings in the period of adoption consistent with preparers' requests. The Company is currently evaluating the impact of the pending adoption of the new standard on the consolidated financial statements.

In November 2015, the FASB issued ASU No. 2015-17, Income Taxes (Topic 740): Balance Sheet Classification of Deferred Taxes. This ASU simplifies the presentation of deferred income taxes by eliminating the requirement for entities to separate deferred tax liabilities and assets into current and noncurrent amounts in classified balance sheets. Instead, it requires deferred tax assets and liabilities be classified as noncurrent in the balance sheet. ASU 2015-17 is effective for financial statements issued for annual periods beginning after December 15, 2017. Early adoption is permitted, and this ASU may be applied either prospectively to all deferred tax liabilities and assets or retrospectively to all periods presented. The adoption of this standard is not expected to have a material impact on the Company's consolidated financial statements. Upon adoption of this standard on a retrospective basis, all deferred income tax assets and liabilities will be presented as noncurrent. The Company adopted this ASU effective November 1, 2016, which has been applied on a retrospective basis, and all deferred income tax assets and liabilities have been presented as noncurrent.

Note 2. Summary of Significant Accounting Policies – (Continued)

In May 2014, the FASB issued ASU No. 2014-09, Revenue from Contracts with Customers (Topic 606), requiring an entity to recognize the amount of revenue to which it expects to be entitled for the transfer of promised goods or services to customers. The updated standard will replace most existing revenue recognition guidance in U.S. GAAP when it becomes effective and permits the use of either a full retrospective or retrospective with cumulative effect transition method. In August 2015, the FASB issued ASU No. 2015-14 which defers the effective date of ASU 2014-09 one year making it effective for annual reporting periods beginning after December 15, 2018. The Company has not yet selected a transition method and is currently evaluating the effect that the standard will have on the consolidated financial statements.

Subsequent events: The Company has evaluated subsequent events through October 19, 2018, the date the consolidated financial statements were available for issuance, and has determined that no such matters require disclosure except as disclosed in the Merger Agreement signed between the Company and Industrea Acquisition Corporation effective September 7, 2018. Therein it is disclosed that the Company had entered into a Merger Agreement. The transactions set forth in the Merger Agreement will result in a Business Combination involving the Company wherein the Company will be acquired by Industrea Acquisition Corporation. Under the Merger Agreement, Industrea Acquisition Corp. will acquire the Company for aggregate consideration of $610.0 million.

Note 3. Business Combinations

O'Brien Companies: In April 2018, Brundage — Bone entered into an asset purchase agreement to acquire substantially all assets of Richard O'Brien Companies, Inc., O'Brien Concrete Pumping-Arizona, Inc., O'Brien Concrete Pumping-Colorado, Inc. and O'Brien Concrete Pumping, LLC (collectively, the O'Brien Companies) for cash.

This acquisition qualifies as a business combination under ASC 805. Accordingly, the Company will record all assets acquired and liabilities assumed at their acquisition-date fair values, with any excess recognized as goodwill. Goodwill represents expected synergies from combining operations and the assembled workforce. Goodwill is not amortized for book purposes but is expected to be deductible for tax purposes. The acquisition was part of the Company's strategic plan to expand their presence in the Colorado and Arizona markets.

The following table represents the preliminary allocation of consideration to the assets acquired and liabilities assumed at their estimated acquisition-date fair values:

Consideration paid:	
Cash, net of cash acquired	$ 21,000,000
Total consideration paid	$ 21,000,000
Net assets acquired:	
Inventory	$ 85,000
Property, plant and equipment	16,218,000
Intangible assets	2,458,317
Total net assets acquired	18,761,317
Goodwill	$ 2,238,683

Note 3. Business Combinations – (Continued)

Acquisition-related expenses incurred by the Company amounted to $845,659, which have been recognized in the consolidated statements of income for the nine months ended July 31, 2018.

The accounting for the business combination under ASC 805 is not yet complete. The Company is still in the process of determining the fair values of the net assets acquired, mainly the identifiable intangible assets.

Reilly: In July 2017, Camfaud entered into a share purchase agreement to acquire all outstanding shares of Reilly, a UK based concrete pumping company, in exchange for cash and seller notes.

This acquisition qualifies as a business combination under ASC 805. Accordingly, the Company has recorded all assets acquired and liabilities assumed at their acquisition-date fair values, with any excess recognized as goodwill. Goodwill represents expected synergies from combining operations and assembled workforce. Goodwill is not amortized for book purposes nor is it deductible for tax purposes. The acquisition was part of the Company's strategic plan to expand Camfaud's UK footprint.

The following table represents the total consideration transferred and its allocation to the assets acquired and liabilities assumed at their acquisition-date fair values:

Consideration paid:	
Cash, net of cash acquired	$ 11,267,729
Debt issued to sellers	1,941,150
Total consideration paid	$ 13,208,879
Net assets acquired:	
Accounts receivable	$ 1,624,598
Inventory	178,432
Prepaid expenses and other current assets	223,619
Property, plant and equipment	9,194,329
Intangible assets	1,194,454
Accounts payable	(533,129)
Accrued expenses and other current liabilities	(971,005)
Deferred tax liabilities	(879,069)
Total net assets acquired	10,032,229
Goodwill	$ 3,176,650

Identifiable intangible assets acquired consist of customer relationships of $552,581 and a trade name of $641,873. The customer relationships were valued using the multi-period excess earnings method. The Company determined the useful life of the customer relationships to be 15 years. The trade name was valued using the relief-from-royalty method. The Company determined the useful life of the trade name to be 10 years.

The Company also entered into loans with the former owners that are discussed in Note 7.

Acquisition-related expenses incurred by the Company amounted to $594,039, of which $0 and $473,280, respectively were included in transaction costs in the in the consolidated statements of income for the nine months ended July 31, 2018 and 2017 respectively.

Camfaud: In November 2016, Camfaud acquired two concrete pumping companies based in the UK.

Note 3. Business Combinations – (Continued)

This acquisition qualifies as a business combination under ASC 805. Accordingly, the Company has recorded all assets acquired and liabilities assumed at their acquisition-date fair values, with any excess recognized as goodwill. Goodwill represents expected synergies from combining operations and the assembled workforce. Goodwill is not amortized for book purposes nor is it deductible for tax purposes. The acquisition was part of the Company's strategic plan to broaden their global presence. The acquisition was financed through additional Senior Secured Notes, a revolving loan and the seller notes.

The following table represents the total consideration transferred and its allocation to the assets acquired and liabilities assumed at their acquisition-date fair values:

Consideration paid:	
Cash, net of cash acquired	$ 49,159,520
Debt issued to sellers	6,221,000
Contingent consideration	908,266
Total consideration paid	$ 56,288,786
Net assets acquired:	
Accounts receivable	$ 6,344,614
Inventory	564,833
Prepaid expenses and other current assets	726,679
Property, plant and equipment	25,641,272
Intangible assets	18,574,662
Accounts payable	(1,579,842)
Accrued expenses and other current liabilities	(3,291,260)
Capital lease obligation	(183,405)
Deferred tax liabilities	(5,369,822)
Total net assets acquired	41,427,731
Goodwill	$ 14,861,055

The contingent consideration is based on average EBITDA over the 3-year period following the acquisition date and has a maximum payout of approximately $3,100,000. The Company has recorded the contingent consideration initially at fair value based on a probability-weighted approach, discounted to present value at an annual rate of 7.5 percent. The contingent consideration is presented as deferred consideration in the accompanying consolidated balance sheets and will be adjusted to fair value each reporting period until the contingency is resolved. A fair value adjustment of $709,182 was necessary as of July 31, 2018 and was recorded as an increase in deferred consideration in the consolidated balance sheet totalling $1,667,891 as of the nine months ended July 31, 2018 and a corresponding expense was recorded in general and administrative expense. No fair value adjustment was required as of October 31, 2017.

Identifiable intangible assets acquired consist of customer relationships of $15,933,225 and trade names of $2,641,437. The customer relationships were valued using the multi-period excess earnings method. The Company determined the useful life of the customer relationships to be 15 years. The trade name was valued using the relief-from-royalty method. The Company determined the useful life of the trade names to be 10 years.

The Company also entered into loans with the former owners that are discussed in Note 7.

Note 3. Business Combinations – (Continued)

Total acquisition-related expenses incurred by the Company amounted to $6,608,456, of which $3,566,407 has been recognized in the consolidated statements of income for the nine months ended July 31, 2017.

Note 4. Fair Value Measurement

The carrying amounts of the Company's cash, accounts receivable, accounts payable and current accrued liabilities approximate their fair value as recorded due to the short-term maturity of these instruments, which approximates fair value. The Company's outstanding obligations on its revolving line of credit and UK revolver are deemed to be at fair value as the interest rates on these debt obligations are variable and consistent with prevailing rates. The Company believes the carry value of our capital lease obligations represents fair value

The Company's long-term debt instruments are recorded at their carrying values in the consolidated balance sheets, which may differ from their respective fair values. The fair value amount of the long-term debt instruments are derived from observable inputs other than level 1 prices. The fair value amounts are derived from observable inputs at level 2 prices. The fair value amount of the Long-term debt instruments at July 31, 2018 is presented in the table below based on the prevailing interest rates and trading activity of the Notes.

	2018	
	Carrying Value	**Fair Value**
Senior secured notes	**$ 167,553,001**	$ 178,025,063
Seller notes	**8,536,450**	8,536,450
Capital lease obligations	**723,930**	723,930

In connection with the acquisition of Camfaud, shareholders were eligible to receive earnout payments of up to $3,100,000 if certain Earnings before interest, taxes, depreciation, and amortization (EBITDA) targets were met (Note 3).

As a result, the Company estimated the fair value of the contingent earnout liability based on its probability assessment of Camfaud's EBITDA achievements during the 3 year earnout period. In developing these estimates, the Company considered its revenue and EBITDA projections, its historical results, and general macro-economic environment and industry trends. This fair value measurement was based on significant revenue and EBITDA inputs not observed in the market, which represents a Level 3 measurement. Level 3 instruments are valued based on unobservable inputs that are supported by little or no market activity and reflect the Company's own assumptions in measuring fair value.

In accordance with the FASB's standard on business combinations, the Company reviewed the contingent earnout liability on a quarterly basis in order to determine its fair value. Changes in the fair value of the liability are recorded within operating expenses in the period in which the change was made.

The following table represents a reconciliation of the change in the fair value measurement of the contingent earnout liability for the nine months ended July 31, 2018:

	2018
Beginning balance	968,783
Change in fair value of contingent earnout liability included in operating expenses	709,182
Change fair value due to foreign currency	(10,074)
Ending balance	1,667,891

Note 4. Fair Value Measurement – (Continued)

The Company's non-financial assets, which primarily consist of property and equipment, goodwill and other intangible assets, are not required to be carried at fair value on a recurring basis and are reported at carrying value. However, on a periodic basis or whenever events or changes in circumstances indicate that their carrying value may not be fully recoverable (and at least annually for goodwill, non-financial instruments are assessed for impairment and, if applicable, written down to and recorded at fair value. No adjustments were made to the carrying value of any such assets due to lack of recoverability or impairment as of July 31, 2018 and October 31, 2017.

Note 5. Property, Plant and Equipment

The significant components of property, plant and equipment as of July 31, 2018 and October 31, 2017, respectively, are as follows:

	2018	2017
Land, building and improvements	**$ 21,396,973**	$ 21,986,324
Capital leases – land and buildings	**909,250**	909,250
Machinery and equipment	**252,248,308**	199,185,640
Transportation equipment	**3,433,477**	2,961,147
Furniture and office equipment	**1,467,690**	888,504
	279,455,698	225,930,865
Less accumulated depreciation	**(81,550,747)**	(50,388,730)
Property, plant and equipment, net	**$ 197,904,951**	$ 175,542,135

Depreciation expense for the nine months ended July 31, 2018 and 2017, was $12,955,480 and $15,022,628, respectively, of which $11,936,976 and $14,544,957, respectively, was included in cost of operations and $1,018,505 and $477,671, respectively, was included in general and administrative expenses.

Note 6. Goodwill and Intangible Assets

The Company recognized goodwill and certain intangible assets in connection with Business Combinations (Note 3). Goodwill is not amortized for book purposes.

The following table details the changes in goodwill as of July 31, 2018 and October 31, 2017:

Balance, November 1, 2016	$ 54,400,319
Goodwill acquired in 2017 acquisitions	18,037,705
Change in foreign currency rates	1,071,184
Balance, October 31, 2017	$ 73,509,208
Balance, November 1, 2017	$ 73,509,208
Acquisition of O'Brien Companies	2,238,683
Change in foreign currency rates	(198,719)
Balance, July 31, 2018	$ 75,549,172

Note 6. Goodwill and Intangible Assets – (Continued)

Intangible assets are amortized over their useful lives on a straight-line basis, except for the customer relationships and the Camfaud trade names. The customer relationships and the Camfaud trade names are amortized using the free cash flow method. The following table summarizes the Company's intangible assets as of July 31, 2018 and October 31, 2017:

	2018			2017		
	Gross Carrying Value	Accumulated Amortization	Net Carrying Amount	Gross Carrying Value	Accumulated Amortization	Net Carrying Amount
Customer relationship	**$ 47,379,672**	**$ (21,366,654)**	**$ 26,013,018**	$ 45,521,514	$ (16,770,766)	$ 28,750,748
Trade name	**15,918,692**	**(3,285,569)**	**12,633,123**	15,546,675	(2,401,152)	13,145,523
Noncompete agreements	**503,236**	**(469,306)**	**33,930**	485,000	(347,083)	137,917
	$ 63,801,600	**$ (25,121,529)**	**$ 38,680,071**	$ 61,553,189	$ (19,519,001)	$ 42,034,188

Amortization expense recognized by the Company related to intangible assets was $5,719,889 and $5,633,877 for the nine months ended July 31, 2018 and 2017, respectively. The estimated aggregate amortization expense for intangible assets over the next five fiscal years ending October 31 and thereafter is as follows:

Years ending October 31:	
2018	$ 1,927,768
2019	6,643,211
2020	5,493,193
2021	3,908,148
2022	3,348,425
Thereafter	17,359,326
	$ 38,680,071

Note 7. Long Term Debt and Revolving Lines of Credit

Revolving line of credit: The Company has a revolving loan agreement (the Revolver) with a bank. As of July 31, 2018, the maximum borrowing capacity was $65,000,000. The Revolver bears interest at the LIBOR rate plus an applicable margin. As of July 31, 2018, the applicable margin resets quarterly and is (a) 2.00 percent, (b) 2.25 percent or (c) 2.50 percent if the quarterly average excess availability is (a) at least 66.67 percent, (b) less than 66.67 percent and at least 33.33 percent and (c) less than 33.33 percent, respectively. Interest is due monthly and the outstanding principal balance is due upon maturity. The Revolver is secured by substantially all assets of the Company and requires that the Company maintains a minimum fixed charge coverage ratio. The Company is in compliance with the minimum fixed charge coverage ratio as of July 31, 2018 and October 31, 2017. The outstanding balance of the Revolver as of July 31, 2018 and October 31, 2017, was $44,364,006 and $44,597,240, respectively.

UK Revolver: In connection with the acquisition of Camfaud in November 2016 (see Note 3), Camfaud entered into a revolving loan agreement (the UK Revolver) with a maximum borrowing capacity of approximately $28,000,000. The UK Revolver bears interest at the LIBOR rate plus 2 percent which gave an effective rate of 4.35% at July 31, 2018 and expires in November 2019. The UK Revolver is secured by substantially all assets of the Oxford Group. The outstanding balance of the UK Revolver as of July 31, 2018 and October 31, 2017, was $16,330,849 and $21,291,631, respectively.

Note 7. Long Term Debt and Revolving Lines of Credit – (Continued)

Senior secured notes: To finance the Merger on August 18, 2014, the Company issued senior secured notes through a high-yield bond offering under SEC Rule 144A (Senior Notes). The offering raised $140,000,000 of proceeds for the Company. The Senior Notes mature on September 1, 2021, and bear interest at 10.375 percent per annum. Interest payments are due every March 1 and September 1 commencing March 1, 2015. Principal is due upon maturity. The Senior Notes are secured by substantially all assets of the Company and contain various non-financial covenants.

In conjunction with the acquisition of Camfaud (Note 3), in November 2016, the Company issued additional senior secured notes of $40,000,000 as an incremental borrowing with the same terms and form as the original Senior Notes.

In March 2017, the Company repurchased and retired approximately $3,000,000 of outstanding Senior Notes for a purchase price of approximately $3,090,000 plus accrued interest of approximately $5,000. In May 2017, the Company repurchased and retired approximately $2,807,000 of outstanding Senior Notes for a purchase price of approximately $2,975,000 plus immaterial accrued interest. In September 2017, the Company repurchased and retired approximately $3,000,000 of outstanding Senior Notes for a purchase price of approximately $3,045,000 plus immaterial accrued interest.

As a result of these repurchases, the Company recognized a loss of $491,972 for the nine months ended July 31, 2017 for the difference between the carrying amount of the Senior Notes, plus accrued interest, and the repurchase price, which is included in the accompanying consolidated statements of income.

In May 2017, the Company repurchased and retired approximately $2,807,000 of outstanding Senior Notes for a purchase price of approximately $2,975,000 plus an immaterial amount of accrued interest. In September 2017, the Company repurchased and retired approximately $3,000,000 of outstanding Senior Notes for a purchase price of approximately $3,045,000 plus an immaterial amount of accrued interest.

On August 24, 2017, the Company issued a Notice of Early Tender to exchange their Senior Notes for newly issued senior secured notes (New Senior Notes). Substantially all investors exchanged their outstanding notes (the Senior Note Exchange), which settled in September 2017. The outstanding balance of Senior Notes that did not participate in the exchange was $1,266,000. The New Senior Notes bear interest at 10.375 percent per annum and mature on September 1, 2023. The Company will make interest payments on March 1 and September 1 of each year.

In conjunction with the acquisition of the O'Brien Companies (Note 3), in April 2018, the Company issued additional New Senior Notes with a principal amount of $15,000,000 at a 104 percent premium for a total purchase price of $15,600,000. The $600,000 has been recorded by the Company as a debt premium and will be amortized over the life of the New Senior Notes using the effective interest method.

The outstanding balance of the original Senior Notes as of July 31, 2018 and October 31, 2017, was $1,266,000, respectively. The outstanding balance of the New Senior Notes as of July 31, 2018 and October 31, 2017, was $166,287,000 and $151,287,000.

Unsecured note: To finance the Merger, on August 18, 2014, the Company entered into a $30,000,000 loan agreement with one of its shareholders. The note matures on February 18, 2022, and bears interest at 12 percent per annum. Interest payments are due quarterly on February 18, May 18, August 18 and November 18 every year. Principal, along with any accrued and unpaid interest, is due upon maturity. The Company may elect to have the interest paid-in kind (PIK). If the Company elects to pay PIK interest, the accrued interest will be added to the outstanding balance of the note and payable upon maturity. As of July 31, 2018, all interest associated with the PIK has been paid by the Company. The unsecured notes contain various non-financial covenants.

Note 7. Long Term Debt and Revolving Lines of Credit – (Continued)

As part of the unsecured note, the Company issued 1,000,000 shares of common stock to the lender. As such, the proceeds of the unsecured note have been allocated to the debt and common stock based on their relative fair values. The amount allocated to common stock was $2,478,602, which was recorded as a discount on the debt. The discount is amortized to interest expense over the remaining life of the loan using the effective interest method.

In connection with the Senior Note Exchange on September 8, 2017, the Company repaid the unsecured note, including accrued interest of $210,000. Upon extinguishment, the Company incurred a prepayment penalty fee of $1,440,000.

The Company also wrote off the remaining unamortized discount of $1,473,392 and wrote-off $1,712,194 of unamortized loan fees, including accumulated amortization of $1,088,806, upon extinguishment.

Seller notes: In connection with the acquisitions of Camfaud and Reilly in November 2016 and July 2017 (see Note 3), respectively, the Company entered into loan agreements with the former owners of Camfaud and Reilly for an aggregate amount of $6,221,000 and $1,941,150, respectively (collectively, the Seller Notes). The Camfaud Note bears interest at 5 percent per annum and all principal plus accrued interest are due upon the earlier of; (1) six months after the UK Revolver is repaid in full, (2) 42 months after the acquisition date (May 2020) or (3) the date on which the Company suffers an insolvency event. The Reilly Note bears interest at 5 percent per annum and all principal plus accrued interest are due three years after the acquisition date (July 2020). The Seller Notes are unsecured.

The following is a summary of the Company's long-term debt as of July 31, 2018 and October 31, 2017:

	2018	2017
Senior secured notes	**$ 167,553,001**	$ 152,553,000
Seller notes payable	**8,536,450**	8,626,150
	176,089,451	161,179,150
Plus unamortized premium on debt	**567,441**	327,473
Less unamortized deferred financing costs	**(3,234,279)**	(4,521,793)
Total long term debt	**$ 173,422,613**	$ 156,984,830

Future maturities of long term debt are as follows:

Years ending October 31:	
2018	$ —
2019	—
2020	8,536,450
2021	1,266,000
2022	—
Thereafter	166,287,001
	$ 176,089,451

Note 8. Accrued Payroll and Payroll Expenses

The following table summarizes accrued payroll and expenses as of July 31, 2018 and October 31, 2017:

	2018	2017
Accrued vacation	**$ 3,023,511**	$ 3,041,238
Accrued bonus	**2,262,328**	2,131,945
Other	**1,626,642**	1,729,483
Total accrued payroll and payroll expenses	**$ 6,912,481**	$ 6,902,666

Note 9. Accrued Expenses and Other Current Liabilities

The following table summarizes accrued expenses and other current liabilities as of July 31, 2018 and October 31, 2017:

	2018	2017
Accrued insurance	**$ 3,806,300**	$ 3,155,685
Accrued interest	**7,466,643**	2,890,295
Accrued equipment purchases	**151,541**	2,172,115
Accrued sales and use tax	**3,637,706**	2,695,141
Accrued property tax	**625,441**	750,264
Other	**2,237,806**	2,958,622
Total accrued expenses and other liabilities	**$ 17,925,437**	$ 14,622,122

Note 10. Income Taxes

The following table summarizes our provision for income taxes and the related effective tax rates for the nine months ended July 31, 2018 and 2017:

	2018	2017
Income before income taxes	**$ 16,360,911**	$ 2,570,804
Income tax (benefit) provision	**(10,632,410)**	2,801,805

For the nine months ended July 31, 2018 and 2017, the Company recorded a (65)% and 109% effective tax rate.

Note 10. Income Taxes – (Continued)

The income tax (benefit) provision differs from the expected tax provision computed by applying the U.S. federal statutory rate to income before taxes as a result of the following:

	2018	2017
Income tax provision per federal statutory rate of 23.2% and 34%	**$ 3,791,249**	$ 874,073
State income tax provision, net of federal deduction	**639,160**	265,229
Foreign rate differential	**(108,550)**	(47,578)
Meals and entertainment	**155,147**	186,101
Transaction costs	**224,039**	1,306,799
Change in deferred state tax rate	**(21,278)**	(119,590)
Domestic manufacturing deduction	**—**	(227,650)
Stock compensation	**64,849**	87,758
Contingent consideration fair value adjustment	**164,336**	—
Nontaxable interest income net of foreign income inclusions	**(567,108)**	(86,601)
Foreign tax credit	**(32,563)**	(79,791)
Deferred tax on undistributed foreign earnings	**(485,084)**	354,339
Impact of tax reform	**(14,480,370)**	—
Increase in valuation allowance	**25,725**	52,662
Other	**(1,962)**	236,054
Income tax expense (benefit)	**$ (10,632,410)**	$ 2,801,805

The Company has recognized net deferred tax liabilities of $38,341,728 and $50,111,326 as of July 31, 2018 and October 31, 2017, respectively. The net deferred tax liability is principally comprised of temporary differences related to intangible assets and property and equipment. The decrease in the net deferred tax liability as of July 31, 2018 is primarily related to the reduction of the U.S. corporate income tax rate provided in the Tax Cuts and Jobs Act.

In assessing the realizability of deferred tax assets, management considers 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 periods in which those temporary differences become deductible. Management considers the scheduled reversal of deferred tax liabilities, projected future taxable income, carryback opportunities, and tax planning strategies in making the assessment. The Company believes it is more likely than not that it will realize the benefits of these deductible differences, net of the valuation allowance provided.

In December 2017, the Tax Cuts and Jobs Act (the "2017 Tax Act") was enacted. The 2017 Tax Act significantly revised the U.S. corporate income tax regime by, among other things, lowering the U.S. corporate tax rate from 35% to 21% effective January 1, 2018. In accordance with Staff Accounting Bulletin No. 118, which provides SEC staff guidance for the application of ASC Topic 740, the Company recognized the income tax effects of the 2017 Tax Act in its financial statements in the period the 2017 Tax Act was signed into law. As such, the Company's financial statements for the period ended July 31, 2018 reflect the income tax effects of the 2017 Tax Act for which the accounting is complete and provisional amounts for those specific income tax effects for which the accounting is incomplete but a reasonable estimate could be determined. The Company did not identify items for which the income tax effects of the 2017 Tax Act have not been completed and a reasonable estimate could not be determined as of July 31, 2018.

Note 10. Income Taxes – (Continued)

As a result of the 2017 Tax Act, the Company recorded a provisional tax benefit of $14,653,000 for the period ended July 31, 2018 related to the re-measurement of deferred tax assets and liabilities to reflect the reduction in the U.S. corporate income tax rate from 35 percent to 21 percent.

The Company also recorded a provisional tax expense of $467,000 for the period ended July 31, 2018 related to the deemed repatriation of earnings from its foreign subsidiaries.

Note 11. Commitments and Contingencies

Incentive compensation plan: The Company has an Incentive Compensation Plan that has been approved by the Board of Directors. The Plan establishes a cash bonus pool for eligible employees of the Company. The balance available for the cash bonus pool is established by meeting certain performance targets. As of July 31, 2018 and October 31 2017, the Company accrued $2,262,238 and $2,131,945, respectively, of bonuses payable under the Incentive Compensation Plan, which has been included in accrued payroll and payroll expenses in the accompanying consolidated balance sheets.

Self-insurance: Brundage-Bone's automobile, general and workmen's compensation insurance is partially self-insured. As of July 31, 2018 and October 31, 2017, the general liability deductible was $100,000 per claim. Beginning in fiscal years 2010 and 2014, the workmen's compensation and automobile policies, respectively, were fully-insured. As of July 31, 2018 and October 31, 2017, management has accrued $2,971,947 and $2,418,000, respectively, for claims incurred but not reported and estimated losses reported, which is included in accrued expenses and other current liabilities in the accompanying consolidated balance sheets.

The Company offers employee health benefits via a partially self-insured medical benefit plan. Participant claims exceeding certain limits are covered by a stop-loss insurance policy. The Company contracts with a third party administrator to process claims, remit benefits, etc. The third party administrator requires the Company to maintain a bank account to facilitate the administration of claims. As of July 31, 2018 and October 31, 2017, the account balance was $234,243 and $234,167, respectively, and is included in cash in the accompanying consolidated balance sheets. As of July 31, 2018 and October 31, 2017, management has accrued $834,000 and $737,000, respectively, for health claims incurred but not reported based on historical claims amounts and average lag time, which is included in accrued expenses and other current liabilities in the accompanying consolidated balance sheets.

Litigation: The Company is currently involved in certain legal proceedings and other disputes with third parties that have arisen in the ordinary course of business. Management has reviewed these issues to determine if reserves are required for losses that are probable to materialize and reasonable to estimate the amount of loss in accordance with ASC 450, Contingencies (ASC 450). Management evaluates such reserves, if any, based upon several criteria, including the merits of each claim, settlement discussions, advice of outside counsel, as well as indemnification of amounts expended by the Company's insurers or others, if any. Management and corporate counsel believe that the outcomes of the legal actions will not have a material impact and do not believe that any amounts need to be recorded for contingent liabilities in the consolidated balance sheets.

Life insurance: Brundage-Bone is the owner and beneficiary of term life insurance policies on the lives of its key employees. As of July 31, 2018 and October 31, 2017, the aggregate face value of the policies was $4,000,000 for both periods presented. The policies do not have a cash surrender value.

Letters of credit: The Revolver provides for up to $5,000,000 of standby letters of credit. As of July 31, 2018 and October 31, 2017, total outstanding letters of credit totaled $1,407,580 and $48,000, respectively, of which $882,999 and $48,000 had been committed to the Company's general liability insurance provider and the remaining $524,581 and $0 committed to a vendor, respectively.

Note 11. Commitments and Contingencies – (Continued)

Operating leases: The Company leases facilities, equipment and vehicles under non-cancelable operating leases with various expiration dates through August 2023. Monthly lease payments range from $200 to $9,185. Total rental expense, including related parties, for the nine months ended July 31, 2018 and 2017, was $4,638,649 and $3,726,579, respectively, which also includes the Company's month-to-month leases.

The following is a summary of future minimum lease payments for the fiscal years ending October 31:

Years ending October 31:	
2018	$ 1,135,268
2019	1,873,549
2020	1,192,903
2021	812,755
2022	429,467
Thereafter	2,325,368
	$ 7,769,310

Capital leases: Brundage-Bone entered into two capital leases for land and buildings in Georgia and South Carolina during fiscal year 2015. The terms of the Georgia and South Carolina leases are 123 and 120 months, respectively, and contain purchase options that may be exercised at any time during the lease. The purchase price payable upon exercise of the purchase options is equal to the fair value of the leased assets less the amount of rent paid to date. The purchase price at the end of the lease is insignificant and, therefore, the leased assets are considered to transfer ownership at the end of the lease.

The land and buildings and related liabilities under the capital leases were recorded at the time of the lease at the lesser of the present value of the future payments due under the leases or the fair value of the leased assets. The amount of land and buildings and capital lease obligation originally recorded under the capital leases was $909,250. The capital lease obligation recorded as of July 31, 2018 and October 31, 2017, was $723,930 and $845,791 respectively. The net book value of the leased assets as of July 31, 2018 and October 31, 2017, was $883,209 and $851,619, respectively.

Camfaud also enters into capital leases for operating equipment. The capital lease obligation recorded as of July 31, 2018 and October 31, 2017, was $50,771 and $135,452, respectively.

Future payments of capital lease obligations, together with the present value of those future payments are as follows:

Fiscal years ending October 31:	
2018	$ 77,414
2019	108,081
2020	110,394
2021	112,776
2022	115,229
Thereafter	291,394
Total minimum lease payments	815,288
Less the amount representing interest	(91,358)
Present value of minimum lease payments	$ 723,930

Note 12. Stockholders' Equity

Pursuant to the articles of incorporation, the Company was initially authorized to issue 50,000,000 shares of $0.001 par value common stock and 2,423,711 shares of $0.001 par value preferred stock. In March 2016, the Company amended the articles of incorporation to reduce the number of shares of common stock the Company is authorized to issue to 15,000,000 shares.

In connection with the Merger, the Company issued 6,576,289 shares of common stock to the Sponsor for $16,300,000. The Company also issued 1,000,000 shares of common stock to one of the lenders as part of obtaining loan financing. The amount recorded of $2,478,602 was based on an allocation of the loan proceeds based on the relative fair values of the common stock and debt. The amount was recorded as a discount on the debt, which was written off upon the Company's repayment of the unsecured note during 2017 (see Note 7). The proceeds raised from the equity offering have been reduced by offering costs of $158,715. Also in connection with the Merger, the Company issued 2,423,711 shares of preferred stock to certain former owners of Brundage Bone and Eco-Pan. The preferred stock was recorded at its fair value, which was determined to be $15,182,053 as of the merger date.

Redeemable preferred stock: The Company's preferred stock accrues cumulative dividends at 13.5 percent per annum that must be paid before dividends are paid to any other holders of capital stock, but are not payable until declared (Preferred Dividends). Preferred Dividends accrue daily based on the liquidation preference of the underlying shares and compound quarterly. The preferred stock also includes a liquidation preference of $4.13 per share (Liquidation Preference). Upon liquidation, dissolution or winding up of the Company, before any distributions are made to holders of common stock, holders of preferred stock are entitled to receive an amount equal to the Liquidation Preference plus all accrued but unpaid dividends.

On September 8, 2017, upon settlement of the Senior Notes Exchange (Note 7), the Company declared and paid cumulative unpaid accrued dividends of $4,840,065 to the preferred stockholders. As of July 31, 2018 and October 31, 2017 the liquidation preference of preferred stock was $10,873,090 and $9,845,139, which includes Preferred Dividends of $1,350,533 and $322,582, respectively.

On the 66th month anniversary of the original issuance date (February 18, 2020), each holder of preferred stock may redeem their shares of preferred stock to the Company for a price equal to the fair value of the preferred stock on the redemption date. If it is determined that the presence of preferred stock would have a material adverse effect on the success of a qualified public offering, the shares of preferred stock shall be converted into shares of common stock upon the closing of a qualified public offering. However, the preferred shares contain disability conditions that allow for the Company to prevent the payment upon execution of the aforementioned conversion if the Company determines the conversion would place it in an adverse financial position. The carrying value of preferred stock has not been subsequently adjusted to reflect redemption value as the Company does not believe redemption is probable due to the length of time before redemption can occur.

The holders of preferred stock are entitled to vote together with the holders of common stock as a single class on all matters submitted to a vote of the holders of common stock. Each share of preferred stock is entitled to one vote.

The Company applies the accounting standards for distinguishing liabilities from equity when determining the classification and measurement of its preferred stock. Conditionally redeemable preferred shares (including preferred shares that feature redemption rights that are either within the control of the holder or subject to redemption upon the occurrence of uncertain events not solely within the Company's control) are classified as temporary equity.

Note 12. Stockholders' Equity – (Continued)

The Company has performed an analysis of the redemption features contained within the preferred stock and has determined that embedded features other than the change in control feature identified and evaluated have been determined to be solely within the control of the issuer. ASR 268 requires equity instruments with redemption features that are not solely within the control of the issuer to be classified outside of permanent equity, often referred to as classification in "temporary equity". The Company has presented such amounts outside of temporary equity commensurate with the aforementioned guidance.

Note 13. Stock-Based Compensation

During 2015, the Parent established the 2015 Equity Incentive Plan (the 2015 Plan). Under the 2015 Plan, the Parent may award stock options, restricted stock or other equity awards to certain employees of Brundage-Bone and Eco-Pan and permits the issuance of up to 1,622,120 shares of the Parent's common stock. The vesting period and maturity of each option is determined at the date of grant and generally does not exceed ten years. The options may include both time-vesting and performance-based vesting criteria. Generally, time-vesting options vest evenly over five years. The options are subject to forfeiture if certain vesting requirements are not met. As of July 31, 2018, there were 222,736 shares of the Parent's common stock available for grant under the 2015 Plan. A summary of option activity for the nine months ended July 31, 2018, is as follows:

	Options	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Life	Aggregate Intrinsic Value
Options outstanding, November 1, 2017	1,400,584	$ 4.86		
Granted	—	—		
Forfeited	(1,200)	17.50		
Options outstanding, July 31, 2018	1,399,384	$ 4.85	$ 6.91	$ —

The options granted to employees during the year ended October 31, 2017, included both time-vesting and performance-based vesting criteria. Of the 227,280 options granted, 54,000 are subject to time-vesting only. The time-vesting criteria specify that 20 percent of the options will vest on each of the first 5 anniversaries of the grant date, subject to the holder's continued service through the vesting date. The remaining 173,280 options granted include both time-vesting and performance-based vesting criteria. For these grants, 50 percent of the options are subject to time-vesting and 50 percent are subject to performance-based vesting. The time-vesting criteria specify that 10 percent of the options shall vest on each of the first 5 anniversaries the grant date, subject to the holder's continued service through the vesting date.

The performance criteria stipulate that up to 10 percent of the options shall vest on each of the first 5 anniversaries of the grant date, based on the Company's annual EBITDA for the applicable year and provided that the Companies achieve a minimum annual EBITDA amount for that particular year, subject to the holder's continued service through the vesting date.

Compensation expense subject to the performance-based vesting criteria is recognized over the requisite service period only if the performance criteria are probable of being met. The fiscal year 2017 EBITDA target was not met, thus compensation expense was not recorded for the fiscal year 2017 performance vesting tranche with the exception of two individuals for which the Company waived the performance-based vesting criteria. Compensation expense for time-based vesting options is recognized on a straight-line basis over the requisite service period. Total compensation expense recognized by the Company for the nine months ended, July 31, 2018 and 2017, is $280,632 and $258,896, respectively, which has been included in general and administrative expenses on the accompanying consolidated statements of income. As of July 31, 2018, stock-based compensation not yet recognized in income is $1,188,345, which will be recognized over a weighted-average period of 2.3 years. Included in this amount is $504,505 of expense related to the performance-based awards, which will only be recognized if achievement of the performance targets is determined to be probable.

Note 13. Stock-Based Compensation – (Continued)

The following is a summary of options outstanding and exercisable as of July 31, 2018:

Options Outstanding				Options Exercisable	
Exercise Price	Number of Options	Weighted-Average Remaining Contractual Life	Weighted-Average Exercise Price	Number of Options	Weighted-Average Exercise Price
$ 2.48	1,178,304	7	$ 2.48	609,368	$ 2.48
17.50	221,080	8	17.50	41,568	17.50
	1,399,384		$ 4.85	650,936	$ 3.44

The fair value of share-based payments was estimated using the Black-Scholes option pricing model requiring the use of subjective valuation assumptions. The Black-Scholes valuation model requires several inputs, including the expected stock price volatility. Volatility was determined using observations of historical stock prices for five comparable public companies. The Company's options have characteristics significantly different from those of traded options, and changes in input assumptions can materially affect the fair value estimates.

Note 14. Earnings Per Share

The following is a calculation of the basic and diluted weighted average number of shares outstanding and earnings per share for the nine months ended July 31, 2018 and 2017, respectively :

	2018	2017
Net Income (Loss) (numerator):		
Basic & Diluted:		
Net income (loss) attributable to Net income attributable to Concrete Pumping Holdings, Inc. and Subsidiaries	$ 26,993,321	$ (231,001)
Less: Preferred stock - cumulative dividends	(1,050,005)	(1,411,891)
Less: Undistributed earnings allocated to preferred shares	(6,126,508)	-
Net income (loss) available to common shareholders	$ 19,816,808	$ (1,642,892)
Weighted average shares (denominator):		
Weighted average shares - basic	7,576,289	7,576,289
Dilutive effect of stock options	934,490	-
Weighted average shares - diluted	8,510,779	7,576,289
Antidilutive stock options	-	790,921
Basic income (loss) per share	$ 2.62	$ (0.22)
Diluted income (loss) per share	$ 2.33	$ (0.22)

Note 15. Employee Benefit Plans

Retirement plans: The Company offers a 401(k) plan, which covers substantially all employees of Brundage-Bone and Eco-Pan, with the exception of certain union employees. Participating employees may elect to contribute, on a tax-deferred basis, a portion of their compensation, in accordance with Section 401(k) of the Internal Revenue Code. For the nine months ended July 31, 2018 and 2017, the Company's matching contribution rate for non-collectively bargained employees was 25 percent of the first 4 percent and 50 percent of the first 7 percent of an employee's gross earnings for Brundage-Bone and Eco-Pan participants, respectively. The Company's matching contribution may be changed at the discretion of the Board of Directors. Matching contributions vest 20 percent after two years of service and ratably thereafter until they are 100 percent vested after six years of service. During the nine months ended July 31, 2018 and 2017, certain union employees have collectively bargained for a matching contribution of 50 percent to 100 percent of the first 7 percent of base compensation that a participant contributed, and additional amounts may be contributed at the option of the Board of Directors.

During the nine months ended July 31, 2018 and 2017, certain other union employees have collectively bargained for a defined contribution of $4.50 and $4.25 per hour worked, respectively. Retirement plan contributions for the nine months ended July 31, 2018 and 2017, were $402,180 and $307,021, respectively.

Camfaud operates a Small Self-Administered Scheme (SSAS), which is the equivalent of a U.S. defined contribution pension plan. The assets of the plan are held separately from those of Camfaud in an independently administered fund. Contributions by Camfaud to the SSAS amounted to $196,937 and $123,585 for the nine months ended July 31, 2018 and 2017, respectively.

Multiemployer plans: Brundage-Bone contributes to a number of multiemployer defined benefit pension plans under the terms of

collective-bargaining agreements (CBAs) that cover its union-represented employees. The risks of participating in these multiemployer plans are different from single-employer plans in the following aspects: (a) Assets contributed to the multiemployer plan by one employer may be used to provide benefits to employees of other participating employers; (b) If a participating employer stops contributing to the plan, the unfunded obligations of the plan may be borne by the remaining participating employers; and (c) If Brundage-Bone chooses to stop participating in some of its multiemployer plans, Brundage may be required to pay those plans an amount based on the underfunded status of the plan, referred to as a withdrawal liability. Brundage has no intention of stopping its participation in any multiemployer plan.

Note 15. Employee Benefit Plans – (Continued)

The following is a summary of the contributions to each multiemployer pension plan for nine months ended July 31, 2018 and 2017:

	2018	2017
California	$ 347,759	$ 410,219
Oregon	166,165	151,396
Washington	155,906	94,951
Total contributions	$ 669,830	$ 656,566

No plan was determined to be individually significant. There have been no significant changes that affect the comparability of the contributions. The Company reviews the funded status of each multiemployer defined benefit pension plans at each reporting period so as to monitor the certified zone status for each of the multiemployer defined benefit pension plans. The zone status for the multiemployer defined benefit pension plans for Oregon and Washington was Green (greater than 80% funded) and Yellow (less than 80% funded but greater than 65% funded) for the California multiemployer defined benefit pension plans. The funding status for the Oregon and Washington multiemployer defined benefit pension plans is at January 1, 2017 and January 1, 2016 for the California multiemployer defined benefit pension plans.

Government regulations impose certain requirements relative to multiemployer plans. In the event of plan termination or employer withdrawal, an employer may be liable for a portion of the plan's unfunded vested benefits. Brundage Bone has not received information from the plans' administrators to determine its share of unfunded vested benefits. Brundage Bone does not anticipate withdrawal from the plans, nor is Brundage Bone aware of any expected plan terminations.

The Company believes that the "construction industry" multiemployer plan exception may apply if the Company did withdraw from any of its current multiemployer plans. The "construction industry" exception generally delays the imposition of withdrawal liability in connection with an employer's withdrawal from a "construction industry" multiemployer plan unless and until that employer resumes covered operations in the relevant geographic region without a corresponding resumption of contributions to the multiemployer plan. The Company has no intention of withdrawing, in either a complete or partial withdrawal, from any of the multiemployer plans to which the Company currently contributes; however, it has been assessed a withdrawal liability in the past.

Note 16. Segment Reporting

The Company conducts the business through the following reportable segments based on geography and the nature of services sold: U.S Concrete pumping — Brundage-Bone, U.K. Concrete Pumping — Camfaud, Concrete Waste Management Services — Eco-Pan. The classifications are defined as follows:

- U.S. Concrete Pumping — Brundage-Bone (Brundage-Bone) — consists of concrete pumping services sold to customers in the U.S.
- U.K. Concrete Pumping — Camfaud (Camfaud) — consists of concrete pumping services sold to customers in the U.K, which represents out foreign operations.

Note 16. Segment Reporting – (Continued)

- Concrete Waste Management Services — Eco-Pan (Eco-Pan) — consists of pans and containers rented to customers in the U.S and the disposal of the concrete waste material services sold to customers in the U.S.

The accounting policies of the reportable segments are the same as those described in Note 1. The Chief Operating Decision Maker (CODM) evaluates the performance of its segments based on revenue, and measure segment performance based upon EBITDA (earnings before interest, taxes, depreciation and amortization).

Non-allocated interest expense and various other administrative costs are reflected in Corporate. Corporate assets include cash and cash equivalents, prepaid expenses and other current assets, property and equipment.

The following provides operating information about the Company's reportable segments for the nine months ended July 31, 2018 and 2017:

	2018	2017
Revenue		
Brundage-Bone	**$ 118,423,775**	$ 109,815,128
Camfaud	**36,705,092**	24,975,218
Eco-Pan	**20,725,289**	16,851,310
	$ 175,854,156	$ 151,641,656
EBITDA		
Brundage-Bone	**$ 28,737,164**	$ 25,118,654
Camfaud	**11,008,175**	7,305,546
Eco-Pan	**9,210,293**	6,993,181
Corporate	**1,770,475**	855,669
	$ 50,726,107	$ 40,273,050
Interest income (expense)		
Brundage-Bone	**$ (12,527,158)**	$ (14,405,213)
Camfaud	**(3,158,595)**	(2,642,034)
Eco-Pan	**(530)**	1,506
Corporate	**(3,544)**	—
	$ (15,689,827)	$ (17,045,741)
Depreciation and amortization		
Brundage-Bone	**$ 10,903,777**	$ 14,599,443
Camfaud	**6,041,861**	4,161,064
Eco-Pan	**1,544,487**	1,728,217
Corporate	**185,244**	167,781
	$ 18,675,369	$ 20,656,505

Note 16. Segment Reporting – (Continued)

	2018	2017
Income tax (benefit) expense		
Brundage-Bone	**$ (11,426,307)**	$ 1,542,477
Camfaud	**532,388**	123,690
Eco-Pan	**308,155**	1,785,973
Corporate	**(46,646)**	(650,335)
	$ (10,632,410)	$ 2,801,805
Transaction costs		
Brundage-Bone	**$ 2,520,013**	$ 3,977,589
	$ 2,520,013	$ 3,977,589
Net income (loss)		
Brundage-Bone	**$ 16,732,536**	$ (5,428,479)
Camfaud	**1,275,331**	378,758
Eco-Pan	**7,357,120**	3,480,497
Corporate	**1,628,334**	1,338,223
	$ 26,993,321	$ (231,001)

The following provides a reconciliation from the Company's measure of segment performance, EBITDA, to Income before Taxes for the nine months ended July 31, 2018 and 2017:

	2018	2017
EBITDA to Income Before Taxes Reconciliation		
EBITDA	**$ 50,726,107**	$ 40,273,050
Interest expense	**(15,689,827)**	(17,045,741)
Depreciation and amortization	**18,675,369**	(20,656,505)
Income before taxes	**$ 16,360,911**	$ 2,570,804

Total assets by segment for the as of July 31, 2018 and October 31, 2017 are as follows:

	2018	2017
Total assets		
Brundage-Bone	**$ 275,040,245**	$ 244,553,325
Camfaud	**41,353,070**	44,866,267
Eco-Pan	**31,352,750**	28,961,354
Corporate	**20,062,412**	20,465,681
	$ 367,808,477	$ 338,846,627

Note 16. Segment Reporting – (Continued)

The U.S. and U.K. were the only regions that accounted for more than 10% of the Company's revenues at July 31, 2018 and 2017, respectively. There was no single customer that accounted for more than 10% of revenues at July 31, 2017 and 2018, respectively. Revenues for the nine months ended July 31, 2018 and 2017 and long lived assets as of July 31, 2018 and October 31, 2017:

	2018	2017
Revenues		
U.S.	**$ 139,149,066**	$ 126,666,438
U.K.	**36,705,090**	24,975,218
	$ 175,854,156	$ 151,641,656
Long Lived Assets		
U.S.	**$ 162,388,523**	$ 135,327,182
U.K.	**35,516,428**	40,214,953
	$ 197,904,951	$ 175,542,135

Note 17. Related Party Transaction

The Company entered into a Management Services Agreement with PGP Advisors, LLC (PGP), an affiliate of the Sponsor, on August 18, 2014, to provide advisory, consulting and other professional services. The annual fee for these services is $1,250,000, which is payable quarterly. In September of 2017, the annual service fee was increased to $4,000,000 for the next two years and $2,000,000 annually thereafter. For the nine months ended July 31, 2018 and 2017, the Company incurred $3,342,905 and $964,226, respectively, related to this agreement and other agreed upon expenses, which is included in general and administrative expenses on the accompanying consolidated statements of income.

Please see Note 7 for discussion of unsecured senior notes which the Company repaid in connection with the Senior Note Exchange on September 8, 2017.

In connection with the acquisitions of the O'Brien Companies and Camfaud (Note 3), the Company paid $525,000 and $1,500,000, respectively in transaction costs to PGP which are included in transaction costs on the accompanying consolidated statements of income for the nine months ended July 31, 2018 and 2017.